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Upper Branch Productions, Inc.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UPPER BRANCH PRODUCTIONS, INC.,
a California corporation,

Plaintiff,

vs.

INNERWORKINGS, INC., a Delaware corporation; THE RICHARD DAWKINS FOUNDATION FOR REASON AND SCIENCE, a Delaware corporation; RICHARD DAWKINS FOUNDATION STORE, a Colorado limited liability company; CLINTON RICHARD DAWKINS, an individual residing in England; ROBIN ELISABETH CORNWELL, an individual residing in the State of Colorado; MICHAEL CORNWELL, an individual residing in the State of Colorado; and DOES 1 through 10, inclusive,

Defendants.

Case No. CV-12-8789 MWF (RZx)

Related to CV-12-10694 MWF (RZx)

SECOND AMENDED COMPLAINT FOR:

- (1) COPYRIGHT INFRINGEMENT**
- (2) CONTRIBUTORY COPYRIGHT INFRINGEMENT**
- (3) VICARIOUS COPYRIGHT INFRINGEMENT**
- (4) FRAUD**
- (5) BREACH OF ORAL CONTRACT - *IN THE ALTERNATIVE***
- (6) BREACH OF IMPLIED CONTRACT - *IN THE ALTERNATIVE***

DEMAND FOR JURY TRIAL

1 Plaintiff Upper Branch Productions, Inc. (“Upper Branch” or “Plaintiff”), by its
 2 counsel, alleges against Defendants InnerWorkings, Inc. (“IWI” or “Defendant”), The Richard
 3 Dawkins Foundation For Reason And Science (“RDF” or “Defendant”), Richard Dawkins
 4 Foundation Store (“RDF Store” or “Defendant”), Clinton Richard Dawkins (“Dawkins” or
 5 “Defendant”), Robin Elisabeth Cornwell (“Robin Cornwell” or “Defendant”), and Michael
 6 Cornwell (“Mike Cornwell” or “Defendant”) as follows:

7 **JURISDICTION AND VENUE**

8 1. This Court has subject-matter jurisdiction over the claims relating to the
 9 Copyright Act (17 U.S.C. §§ 101, 501) pursuant to 28 U.S.C. § 1331 (federal subject matter
 10 jurisdiction), 28 U.S.C. § 1332 (diversity jurisdiction), and 28 U.S.C. § 1338(a) (any act of
 11 Congress relating to copyrights, patents and trademarks). This Court has subject matter
 12 jurisdiction over the related state law claims under 28 U.S.C. § 1367 (action asserting state
 13 claims joined with substantial and related federal claims under the copyright laws).

14 2. This Court has personal jurisdiction over Defendants because Defendants are
 15 doing business in the State of California, and venue is proper in this Judicial District pursuant
 16 to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to this
 17 lawsuit, as well as substantial injury to Plaintiff, have occurred or will occur in this District as
 18 a result of Defendants’ acts of copyright infringement and impending acts of copyright
 19 infringement, as alleged in detail below. Venue is also proper in this Judicial District pursuant
 20 to 28 U.S.C. § 1400(a) in that Defendants may be found in this District in light of their
 21 extensive commercial activities in this District.

22 **THE PARTIES**

23 3. Plaintiff Upper Branch Productions, Inc. (“Upper Branch” or “Plaintiff”) was
 24 and is now, and at all relevant times mentioned herein, a California corporation with its
 25 principal place of business located in Los Angeles County, California. Josh Timonen
 26 (“Timonen”) formally commenced doing business as “Upper Branch” when he registered this
 27 DBA with the Los Angeles County Recorder’s Office on or about June 12, 2007. Timonen
 28 thereafter formally incorporated Plaintiff Upper Branch Productions, Inc. with the office of the

1 California Secretary of State on or about April 23, 2008. Timonen was and is now, and at all
2 relevant times mentioned herein, an officer and employee of Upper Branch. Maureen Norton
3 (“Norton”) was at relevant times mentioned herein an employee of Upper Branch.

4 4. Plaintiff is informed and believes that Defendant InnerWorkings, Inc. (“IWI” or
5 “Defendant”) is a corporation incorporated under the laws of the state of Delaware with a
6 principal place of business at 600 W. Chicago Ave. #850, Chicago, IL 60654. Plaintiff is
7 informed and believes that Defendant IWI purchased Idea Media Services, LLC, a limited
8 liability company organized under the laws of the state of Illinois with a principal place of
9 business at 1700 W. Hubbard Street, Chicago, IL 60622.

10 5. Plaintiff is informed and believes that Defendant The Richard Dawkins
11 Foundation For Reason And Science (“RDF” or “Defendant”) is a Non-Stock Non-Profit
12 Corporation incorporated under the laws of the State of Delaware with a principal place of
13 business in the State of Colorado.

14 6. Plaintiff is informed and believes that Defendant Richard Dawkins Foundation
15 Store (“RDF Store” or “Defendant”) is a limited liability company organized on or about May
16 27, 2010, under the laws of the state of Colorado with a principal place of business at 1605
17 Meridian Market View, Unit 124, PMB 381, Falcon, CO 80831.

18 7. Plaintiff is informed and believes that Defendant Clinton Richard Dawkins
19 (“Dawkins” or “Defendant”) is a British citizen who resides in Oxford, England. Dawkins is
20 the admitted founder of RDF as well as its United Kingdom sister organization the Richard
21 Dawkins Foundation for Reason and Science, Ltd. According to RDF’s website
22 <richarddawkins.net>, Defendant Dawkins is an officer and/or managing agent of RDF.
23 Plaintiff is further informed and believes that Dawkins continues to ultimately maintain the
24 right to supervise and control his namesake foundation RDF and his namesake store RDF
25 Store in terms of the infringing activity as set forth below. Further, Plaintiff is informed and
26 believes and on that basis alleges that Dawkins knew or had reason to know of infringing
27 activity set forth below and intentionally induced or materially contributed to the infringing
28 activity set forth below.

1 8. Plaintiff is informed and believes that Defendant Robin Elisabeth Cornwell
2 (“Robin Cornwell” or “Defendant”) is a former citizen of the State of Colorado, who now
3 resides in the District of Columbia, and is an officer and/or managing agent of Defendants
4 RDF and RDF Store.

5 9. Plaintiff is informed and believes that Michael Cornwell (“Mike Cornwell” or
6 “Defendant”) is a citizen of the State of Colorado, and is an employee of Defendant RDF
7 and/or Defendant RDF Store. Plaintiff is further informed and believes that Mike Cornwell is
8 operating the RDF Store out of his home in Elbert, Colorado.

9 10. The true names and capacities, whether individual, corporate, associate or
10 otherwise, of Defendant DOES 1 through 10, inclusive, and presently unknown to Plaintiff,
11 who therefore sues these Defendants by such fictitious names. Plaintiff is informed and
12 believes and thereon alleges that each of the DOE Defendants was and is either intentionally,
13 negligently, or in some other manner, the cause or contributing cause of, or otherwise
14 responsible for, the damages suffered by Plaintiff. Plaintiff will amend this Complaint to
15 allege the true names and capacities of each DOE Defendants, together with such allegations
16 as may be appropriate, when their names have been ascertained.

17 11. Plaintiff is further informed and believes and thereon alleges that at all relevant
18 times mentioned herein, each Defendant was the agent, servant, employee, partner, joint
19 venture and/or franchisee of each of the remaining Defendants herein, and was at all times
20 acting within the course and scope of said agency, service, employment, partnership, joint
21 venture and/or franchise. Moreover, Plaintiff is informed and believes, and based thereon
22 alleges, that each act or omission hereinafter alleged on the part of any one Defendant was
23 done with the approval and consent and was ratified by each of the remaining Defendants.

FACTUAL BACKGROUND

Upper Branch Owns Copyrights In and To Multiple Works

12. Plaintiff owns valid and registered copyrights in and to each of the fifteen (15) DVDs, artwork, DVD menus, and other audiovisual works at issue here, and these works are described in the copyright certificates collectively attached hereto as **Exhibit “A.”** Each such work contains a large number of creative elements wholly original to Plaintiff, which are copyrightable subject matter under the laws of the United States (hereafter, such works shall be collectively referred to as the “Works”).

13. Plaintiff is the assignee of any and all intellectual property rights in the Works including all rights under copyright of Timonen, individually and d/b/a Upper Branch, created prior to the formal incorporation of Plaintiff Upper Branch and the copyright owner of the results and proceeds of Timonen’s services following such incorporation.

Upper Branch Owned and Operated The Online Store

14. In or about 2006, Josh Timonen and Richard Dawkins orally agreed that Josh Timonen would from Los Angeles, California design and develop a website for Richard Dawkins. Timonen was paid certain independent contractor fees for these website services.

15. During this time, Richard Dawkins represented to Josh Timonen, orally and in writing through emails, that he was attempting to register, and having difficulty registering, RDF in the United Kingdom (“UK”) as a registered charity in the UK because the British Charities Commission (“BCC”) was concerned over a number of issues, including concerns that RDF would be promoting the works of Dawkins, which, in the BCC’s view, would violate BCC regulations in two ways: First, it was relayed that the BCC expressed concern that as a charity organized for educational and scientific purposes, RDF in the UK would be required to present materials related to the issues of religion and creationism in an unbiased, balanced and

1 neutral fashion, whereas Dawkins' works presented views on religion and creationism from a
 2 particularly biased perspective. Second, it was also relayed that the BCC was concerned that
 3 the sale of Dawkins' works on the RDF website would confer an impermissible private benefit
 4 to Dawkins as a platform for promotion of his work.

5 16. As a result of these asserted BCC "restrictions," Richard Dawkins represented to
 6 Josh Timonen that Dawkins would require two websites -- one for Richard Dawkins,
 7 personally, and one for RDF, which would link to Dawkins' personal website. Again, Josh
 8 Timonen was paid certain independent contractor fees for these website services.

9 17. In or about June 2007, Josh Timonen orally agreed with Richard Dawkins, and
 10 Robin Cornwell (who at the time was only a volunteer for RDF), that Josh Timonen d/b/a
 11 Upper Branch would create and operate, independently and autonomously from Richard
 12 Dawkins and his namesake foundation, RDF, an online store ("Store"), which, in Dawkins'
 13 words was "not directly concerned with RDF[]'[s] activities."

14 18. In connection therewith, Richard Dawkins permitted Josh Timonen to link the
 15 Upper Branch Store website to Richard Dawkins' personal website, and although Richard
 16 Dawkins' personal website was linked to RDF's website, there was no direct link between the
 17 Upper Branch Store website and RDF's website.

18 19. At all times hereunder, Upper Branch was an independent business, and Mr.
 19 Timonen autonomously ran and operated Upper Branch, and the Upper Branch Store, which
 20 specialized in selling goods which publicized the issues and causes(s) which were also
 21 supported and advanced by Dawkins and RDF.

22 20. Upper Branch operated the Store from a location within Los Angeles, California.

23 21. On or about July 25, 2007, with respect to the proposed donation of profits to
 24 RDF after payment of business expenses, salaries, benefits and taxes of Upper Branch,
 25 Richard Dawkins <richard.dawkins@zoo.ox.ac.uk> emailed Timonen in Los Angeles, copying
 26 Robin Cornwell <web.master@rdfrs.org>, and represented in writing: **"it's your baby, your**
 27 **profits, your tax . . . as for whether [Upper Branch] should make a donation to [RDFRS],**
 28 **I don't think you should feel any moral obligations in that regard.**" (Emphasis added.)

1 These emails were previously produced to Dawkins and RDF in EC054190, see infra at 57, *et*
2 *seq.*, bates stamped DEF000005 through DEF000009.

3 22. In reasonable reliance upon the foregoing material representations and
4 assurances from Dawkins and Cornwell, and having no reason to believe that such
5 representations were false in any way, Timonen was induced to and relied upon the same and
6 understood that the parties had in fact reached agreement. Indeed, Timonen d/b/a Upper
7 Branch created and operated the Upper Branch Store, independently and autonomously, until
8 April 2008, at which point Timonen caused Upper Branch to be formally incorporated and to
9 thereafter independently and autonomously operate the Store until May, 2010. Neither
10 Richard Dawkins, nor RDF, nor Robin Cornwell provided any capitalization for Upper Branch
11 or ever paid taxes on its behalf. Neither Richard Dawkins, nor RDF, nor Robin Cornwell were
12 ever directors, officers, employees or shareholders of Upper Branch either.

13 23. Upper Branch created all of the goods that were sold in the Store, determined
14 how much those goods would be sold for, paid for all costs associated with the manufacturing
15 of said goods, as well as all costs of operating the Store, including Upper Branch operating
16 costs, building lease costs, Upper Branch employee benefits and salary, and all local, state and
17 federal costs. Upper Branch plowed any excess operating revenues (after expenses) to
18 expansion of the Store inventory and productions, including the Works, and on one occasion
19 contributed \$30,000 to the Ayaan Hirsi Ali Security Fund, funneling this charitable
20 contribution through RDF for tax reasons, only, and not due to any “moral obligation” or other
21 obligation which Richard Dawkins disclaimed in his email of July 25, 2007, supra at 21.

22 24. Separate and apart from the Store operation, Richard Dawkins requested Josh
23 Timonen to continue developing and managing the websites for Dawkins and RDF in
24 exchange for certain independent contractor fees for these separate services.

25 ///

26 ///

27 ///

28 ///

Richard Dawkins and RDF Fail To Compensate Upper Branch For Upper Branch's Conveyance of Store Assets and Operations to RDF; Richard Dawkins and RDF Instead File A Civil Lawsuit Against Upper Branch, et al., in Los Angeles Superior Court, Alleging "Criminal" Conduct, Claims Which The Court Later Dismissed With Prejudice.

25. In or about December, 2009, Robin Cornwell and Maureen Norton discussed the possibility of Upper Branch conveying the Store operations and assets to RDF. Robin Cornwell had represented to Josh Timonen and Maureen Norton that RDF had obtained its 501(c)(3) status in the United States and, through corporate transactions, had been restructured and been "uncoupled" from RDF in the UK. It was also relayed that as a result, RDF in the US was, at that point in time, permitted to begin operating its own "online store" and to profit from a merchandising enterprise, whereas previously, Plaintiff was led to understand that RDF in the US was not permitted to profit from any such merchandising enterprise.

26. As a result of the foregoing representations, it was agreed that Upper Branch would convey the Store assets, operations, and inventory, and in exchange, RDF would compensate Upper Branch for its Store inventory as well as the financial, legal, and tax liabilities that had been incurred by Upper Branch and which would be incurred by Upper Branch as a result of the Store conveyance.

27. In connection therewith, on December 29, 2009, at 5:34 PM, Robin Cornwell <elizabeth.cornwell@mac.com> on behalf of Richard Dawkins and RDF, emailed Josh Timonen and Maureen Norton:

"Hi Josh and Maureen,

...

Richard [Dawkins] has agreed to spend some time in the US as soon as his book is finished - and that includes time in Burbank to film vignettes. ... So think about how much time Richard [Dawkins] should spend in Los Angeles...

So think about the possibilities of what we need Richard [Dawkins] to do...

...

1 Another thing to think about is whether or not you both want to
 2 come out to Colorado to meet with the accounting people. If so we
 3 can go over the way to buy out the store and budget for more staff.
 4 All very boring I know. . . but necessary. I will try to make it as
 5 painless as possible. Your tax accountant will need to be involved,
 6 and of course we will cover the additional costs.”

7 A copy of this email was subsequently produced by Upper Branch, *et al.*, to Dawkins
 8 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000025.

9 28. In connection therewith, on January 12, 2010, at 8:28 AM, Robin Cornwell
 10 <robin.cornwell@gmail.com> on behalf of Richard Dawkins and RDF, emailed Josh
 11 Timonen:

12 “Hi Josh,

13 ...

14 When would be a good time to meet up and go through the grueling
 15 necessity of budgets, buying out the Store, . . . etc.??? Is there a
 16 time in January that would work for you?”

17 A copy of this email exchange was subsequently produced by Upper Branch, *et al.*, to
 18 Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000023 to
 19 DEF000024.

20 29. In connection therewith, on January 27, 2010, at 5:10 PM, Robin Cornwell
 21 <robin.cornwell@gmail.com> on behalf of Richard Dawkins and RDF, emailed Josh Timonen
 22 and Maureen Norton:

23 “Hey,

24 Met with Steve Gaines today to talk about bringing the Store under
 25 RDF[]. The main thing is to make certain you don’t have any
 26 surprise expenses or tax issues in terms of this change over. And,
 27 we want to try to do this fairly quickly.

28 What we need to get is a current inventory and its value.

1 Also, a general idea of what is sold in terms of merchandize... so
2 perhaps the last three months?

3 ...

4 We should definitely plan on you both coming out [to Colorado] in
5 March. . . .

6 The other thing we need to do is all the Trademarks: RDF TV, OUT
7 Campaign, NBGA, Goodness for Goodness' Sake Now that we
8 are no longer just playing at this Foundation stuff, we have to get our
9 shit together. What a pain."

10 A copy of this email was subsequently produced by Upper Branch, et al., to Dawkins
11 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000022.

12 30. In connection therewith, on February 3, 2010, Robin Cornwell on behalf of RDF
13 circulated meeting minutes via email to Josh Timonen, Maureen Norton and RDF Trustees,
14 including Richard Dawkins, et al., which represented:

15 "1. Moving the merchandizing, website, and all the film production
16 under RDFRS. Steve [Gaines] will be looking at the particular
17 issues surrounding this transition.

18 ...

19 Concerning this move, it is critical that Upper Branch does not incur
20 any costs, including tax, legal or financial responsibilities.

21 Maureen Norton has provided RDFRS with a current inventory of
22 stock, and current liabilities and revenues. Additionally, she will
23 provide a P & L statement for 2009 in order for us to budget for
24 2010 and beyond.

25 In terms of the DVDs, the most important issue is to put into place
26 all of the legal ownership."

27 A copy of these meeting minutes were subsequently produced by Upper Branch, et al.,
28 to Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000010 through
DEF000016.

31. In connection therewith, on or about March 9, 2010, at 3:23 PM, Robin Cornwell

1 circulated by email to Richard Dawkins, Claire Enders, Todd Stiefel, Andy Thomson, among
2 others, and carbon copying Josh Timonen, meeting minutes Robin Cornwell authored to
3 document for the RDF Trustees an in-person meeting among Josh Timonen, Maureen Norton,
4 Robin Cornwell, Jill Chalmers, and Steve Gaines on March 5, 2010. The following was
5 documented in these meeting minutes:

6
7 **“Upper Branch and the Store**

8 As the Trustees are aware, the British Charities Commission put
9 strict controls on the Foundation’s activities concerning potential
10 benefits to Richard [Dawkins]. Thus, when the US Foundation
11 owned the UK Foundation, the website RichardDawkins.net along
12 with the activit[y] of the selling merchandize was owned and
13 operated by Upper Branch Productions - a company owned by Josh
Timonen. . . . With the decoupling of the two Foundations, the US
Foundation is free to own the websites and store.

14 . . .

15 To the main point we have two issues: RichardDawkins.net being
16 the website for the US Foundation and moving all the merchandize
17 from the Store to the Foundation. . . .

18 Upper Branch will donate the merchandize to the Foundation. This
19 provides a tax break for Upper Branch, but we must also consider
20 that Upper Branch has been paying taxes and accounting fees while
21 operating the business [over the last three years]. Most of the profits
22 from sales have been plowed into the operation, including new
merchandize, filming, editing, and other associated costs such as part
time staff.

23 . . .

24 The Store is not only self-sustaining, but has grown substantially.

25 . . .

26
27 Maureen Norton has prepared and submitted the inventory and the
28 transition of stock should go smoothly.

. . .

1 Another matter in this transition is making certain that we have all
2 the appropriate documentation in terms of ownership of the DVD
3 rights, all films, photos, images, logos and properties are assigned to
4 the Foundation.”

5 A copy of these meeting minutes were subsequently produced by Upper Branch, et al.,
6 to Dawkins and RDF in EC054190, see *infra* at 57, *et seq.*, bates stamped DEF000026 through
7 DEF000032.

8
9 32. In connection therewith, on Tuesday, May 18, 2010, the following emails were
10 exchanged between Robin Cornwell <robin.cornwell@mac.com> on behalf of Richard
11 Dawkins and RDF, and Josh Timonen <joshtimonen@gmail.com> on behalf of Upper Branch.
12 These emails were also selectively produced by Richard Dawkins and RDF to Upper Branch,
13 *et al.* in EC054190, see *infra* at 57, *et seq.*, bates stamped RDFRS, et al. DOX 1 -- 000106
14 through RDFRS, et al. DOX 1 -- 000109:

15 (a) At 2:41 PM, Robin Cornwell wrote to Josh Timonen:

16 “Dear Josh,

17 ...

18 As you know, we were in the middle of moving the financial aspects
19 of the Store to the Foundation as well as all the rights of all footage,
20 DVD, logos, as well as hard drives, equipment, insurance, leases,
21 software, maintenance contracts, etc., along with the assumption by
22 RDF of all appropriate liabilities that Upper Branch had.

23 ...

24 When we were discussing the transfer of the Store to the Foundation,
25 you and Maureen both said that neither the Foundation nor Richard
26 owed Upper Branch any funds. It was all a matter of transferring all
27 the property and assets in such a way so that neither you nor Upper
28 Branch would be affected in any negative way regarding taxes. We
want to continue in this vein.

...

We also need to discuss the finances for the Store since it opened.
Maureen kindly sent the [profit and loss statements] for 2009 and
2010, but we will need more detail, and for all years of operation.
Given our non-profit status and our need to make certain there are no
“private inurement” issues, it is in everyone’s best interest to work
together on this as none of us want to accidentally violate any IRS

1 regulations. Additionally, knowing the historic details of the Store
2 allows us to prepare more accurate budgets for the future.

3 ...

4 I am asking you to please stop copying all the Trustees on your
5 communications and work directly with me on this transition and all
6 the financial issues. The Trustees are in full agreement on this
7 request.”

8 (RDFRS, et al. DOX 1 -- 000106 through RDFRS, et al. DOX 1 -- 000109.)

9 (b) at 2:42 p.m., Robin Cornwell emails Maureen Norton separately:

10 “Dear Maureen

11 ...

12 The Trustees have given me the responsibility to direct the transition
13 and be the point person, along with any assistance from others I may
14 determine is needed. This is a difficult situation and has been a
15 tremendous drain on the time and resources of the Trustees. I think
16 we should be able to handle this transition without bringing so many
17 people into the mix. The Trustees have made their decisions and I
18 have been charged to implement it.”

19 (c) at 3:08 p.m., Maureen Norton emails Robin Cornwell:

20 “Our accountant is coming to our office tomorrow to get the books
21 in order. We are in the process of inventorying all of our product
22 and listing all of our outstanding debt. We will have tax liabilities
23 for 2009 and 2010”.

24 (d) at 5:31 p.m., Robin Cornwell responds by reply email to Maureen Norton:

25 “Thank you Maureen, I appreciate your help on these issues.”

26 (e) At 11:35 PM, Josh Timonen wrote to Robin Cornwell:

27 “Hi Robin,

28 I’m working on going through things at our office, organizing equipment, drives,
etc. We are also getting paperwork and numbers ready, and I should be able to
write you more tomorrow about it all.

1
2 Josh”

3 (RDFRS, et al. DOX 1 -- 000106.)
4

5 33. In connection therewith, on Friday, May 21, 2010, the following emails were
6 exchanged between Robin Cornwell <elisabeth.cornwell@mac.com> on behalf of Richard
7 Dawkins and RDF, and Josh Timonen <joshtimonen@gmail.com> on behalf of Upper Branch.
8 These emails were also selectively produced by Richard Dawkins and RDF to Upper Branch,
9 *et al.* in EC054190, see infra at 57, *et seq.*, bates stamped RDFRS, et al. DOX 1 -- 000098
10 through RDFRS, et al. DOX 1 -- 0000101:

11 (a) At 10:37 AM, Robin Cornwell wrote to Josh Timonen:

12 “Josh,

13 . . . Richard [Dawkins] . . . has resigned from being a Trustee of the
14 US Foundation...

15 In order to move forward, I would prefer emailing you directly as
16 you are the owner of Upper Branch. If you choose to make Maureen
17 your authorized agent representing Upper Branch, then I need that in
18 writing from you.

19 Unfortunately, it appears that you feel the Foundation has more
20 financial obligations to you, about which we disagree but we need to
21 sit down and discuss in an open professional manner. Therefore, in
22 order for our accountants to understand the situation, I do need to
23 receive the full disclosure of the Upper Branch financials since you
24 began working with Richard and then later with RDF[.]

25 It would help a great deal if you could clearly lay out one by one
26 what you expect from the Foundation and from Richard [Dawkins]
27 in terms of this transition. Richard [Dawkins] shall be taking a break
28 from the Foundation, and will no longer be consulted on any of the
Foundation issues - this is his choice. It has just simply been too
much for him. . . .

Please let me know how you wish to proceed, I understand that your
meeting with Greg [Langer] has been postponed until next week,

1 which we hope will provide you with enough time to have all the
 2 financial information of the Store, the projects, and the inventory of
 3 the footage, equipment, etc. available. We will have the legal
 4 documents for signing over the assets and liabilities for the Store and
 5 all other assets . . . One of the things we will need are the bank
 6 statements for the Store since its inception. ... Given Richard
 7 [Dawkins'] state of mind and his profound sadness of personal loss,
 8 he has asked me to be his authorized agent in terms [sic] all
 9 purchases made through his personal funds. He simply does not
 10 want to deal with these matters directly any more. I hope you will
 11 have [sic] enough respect and personal concern for Richard to honor
 12 his request to be left out of these matters."

(RDFRS, et al. DOX 1 -- 000100 to RDFRS, et al. DOX 1 --
 000101.)

(b) At 6:15 PM, Robin Cornwell wrote to Josh Timonen:

13 "...
 14 We had offered to accept the lease and we wanted the transition to go
 15 smoothly.

16 "...
 17 I will be out next week to pick up all the contents, equipment etc. ... I will likely
 18 be out on Wednesday and we will pick up everything
 19 before the end of the first week of June.

20 "...
 21 Our accountants will need to discuss these issues with your accountant. I
 22 am sorry you felt that you would be left holding the bag. That was never
 23 ever what we intended, and never in a single email did we convey that at
 24 any time."

(RDFRS, et al. DOX 1 -- 000098.)

25 34. In connection therewith, on Monday, May 24, 2010, the following emails were
 26 exchanged between Robin Cornwell <elisabeth.cornwell@mac.com> on behalf of Richard
 27 Dawkins and RDF, and Josh Timonen <joshtimonen@gmail.com> on behalf of Upper Branch.
 28 These emails were also selectively produced by Richard Dawkins and RDF to Upper Branch,
 et al. in EC054190, see infra at 57, et seq., bates stamped RDFRS, et al. DOX 1 -- 000083
 through RDFRS, et al. DOX 1 -- 000095:

1
2 (a) At 10:36 AM, Josh Timonen wrote to Robin Cornwell:

3 “It isn’t possible for you to come clear out the Store in two days
4 (Wed). In Maureen’s email, she said “the end of the month”. We
5 have now closed down the [S]tore but have 116 pending orders, and
6 we will not leave our customers high and dry. If you could please
7 respond to the specifics of the inventory, that will help us move
8 forward.”

9
10 (RDFRS, et al. DOX 1 -- 000095.)

11 (b) At 10:14 AM MDT, Robin Cornwell wrote to Josh Timonen:

12 “The inventory is being reviewed. We are not rushing through this.
13 We still need all of the financials from the [S]tore operations. . . .
14 Additionally without all the bank and financial statements from the
15 [S]tore it will be impossible to determine any financial obligations.
16 You were very concerned that RDF[] and Richard [Dawkins] would
17 leave you ‘holding the bag’. Richard [Dawkins] is particularly
18 crushed you would accuse him or his Foundation of this. So, to
19 make certain this does not happen nothing will be done without
20 great caution.”

21
22 (RDFRS, et al. DOX 1 -- 000094 to 000095.)

23 (c) At 1:51 PM EDT, Josh Timonen wrote to Robin Cornwell:

24 “As we said earlier, the end of the month would be the right time to
25 come out, May 31st. Wednesday is too soon.”

26
27 (RDFRS, et al. DOX 1 -- 000092.)

28 (d) At 10:55 AM, Robin Cornwell wrote to Josh Timonen:

“We already made arrangements for Wednesday to meet with you.”

(RDFRS, et al. DOX 1 -- 000090.)

(e) At 2:16 PM EDT, Josh Timonen wrote to Robin Cornwell:

“Robin, I think its past the point of us having a meeting. I’ve been
offended to the point where I wouldn’t be able to sit in the same

1 room with you. Let's just keep the lines of communication open so
2 we can work through these logistics."

3 (RDFRS, et al. DOX 1 -- 000090.)

4 (f) At 2:28 PM, Robin Cornwell wrote to Josh Timonen:

5 I am afraid this is unacceptable. You need to reconsider a decision
6 that has such a tremendous impact.

7 (RDFRS, et al. DOX 1 -- 000088.)

8 (g) At 5:51:21 PM EDT, Josh Timonen wrote to Robin Cornwell:

9 "Robin, what is unacceptable?"

10 (RDFRS, et al. DOX 1 -- 000088)

11 (h) At 3:05 PM, Robin Cornwell wrote to Josh Timonen:

12 "Josh,

13
14 A meeting was set up for Wednesday May 26, and we do need to
15 meet in order to begin the transition. Waiting until the end of this
16 month is not possible given the documents, inventory, and financial
17 issues that remain open. We can begin to go through these
18 documents and view the software setup used to operate the Store.
19 We also have legal documents to go through with you, and we want
20 to make certain that you understand them and are comfortable with
21 them. Additionally, we need obtain access to the warehouse and
22 begin to box things up as we start the inventory count process. I will
23 contact your accountant; however I only received email with the
24 contact information Friday afternoon, thus I did not contact your
25 accountant over the weekend.

26 robin

27 (RDFRS, et al. DOX 1 -- 000087.)

28 (i) At 3:16 PM, Robin Cornwell wrote to Josh Timonen:

"Josh

It is unacceptable that you are refusing to meet on Wednesday. We
are not arriving to move anything from the Store, we wanted to sit

1 down and go through all the documents. . . .

2 We cannot sign off on any inventories, accounting, finances until we
3 go over all the documentation.

4 ...

5 For all of this to be worked out you need to keep your agreement to
6 meet on Wednesday. We need to transition the accounts, the
7 software, etc.

8 Greg [Langer] and I will be at the warehouse to meet with you to
9 discuss the transition on Wednesday.”

10 (RDFRS, et al. DOX 1 -- 000083.)

11 (j) At 6:26 PM EDT, Josh Timonen wrote to Robin Cornwell, and Greg
12 Langer <glikeminds@gmail.com>:

13 “...

14 Whatever documents you are interested in having me sign, please email them
15 and I will review them.

16 As for the inventory, it is updated daily as orders are processed in Shopify.
17 Graham is shipping out the remaining 116 orders and we will reprint and submit
18 the final inventory.

19 ...

20 I will continue my efforts for a smooth transition of the office contents and store
21 inventory. ... Obviously we will need to be in continual contact over the next
22 year regarding expenses and 2009 and 2010 tax liabilities. We don't have to
23 have everything sorted out by the end of the month.”

24 (RDFRS, et al. DOX 1 -- 000086 to RDFRS, et al. DOX 1 -- 000087.)

25 (k) At 6:50 PM EDT, Josh Timonen wrote to Robin Cornwell:

26 “I have agreed to meet with Greg [Langer] as planned.”

27 (RDFRS, et al. DOX 1 -- 000083.)

28 35. In connection therewith, on June 3, 2010, at 5:17 p.m., Josh Timonen emailed
Robin Cornwell, Greg Langer, Todd Stiefel, and Andy Thomson:

1 “Hi Robin,

2 Our accountant has advised that we be paid for the stock that you
3 now have in your possession. If we don’t receive money for the
4 stock costs, we are told it will reduce our ‘purchases’ and cause a
5 greater tax burden. We have sales tax, payroll taxes, DVDs, etc.,
6 that need to be paid out of Upper Branch. We will also have tax
7 liabilities for 2009 and 2010. I suggest you send us the cost (\$23k).
8 We’re hoping this amount will cover all of these costs, but we won’t
9 know for certain until we get numbers back from our bookkeeper.
10 We also need to deal with transferring the rights from Upper Branch
11 Productions, Inc. to RDF on all of the DVD titles. There are also
12 several titles that we will need to do a transfer of copyright
13 ownership on.”

14 A copy of this email was subsequently produced by Upper Branch, et al., to
15 Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000791 to
16 DEF000792.

17 36. In connection therewith, on June 3, 2010, at 5:47 p.m., Robin Cornwell emails
18 Josh Timonen and carbon copies Greg Langer, Todd Stiefel, and Andy Thomson, and Steve
19 Gaines:

20 “Dear Josh,
21 Please let me know what other invoices you have pending and send
22 them to me. Could you expand on the RDFRS DVD titles and the
23 rights?”

24 A copy of this email was subsequently produced by Upper Branch, et al., to Dawkins
25 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000792.

26 37. In connection therewith, on June 4, 2010, at 12:45 PM, Josh Timonen sends a
27 reply email to Robin Cornwell, carbon copying Greg Langer, Todd Stiefel, Andy Thomson,
28 and Steve Gaines:

“We will need to draft ‘assignment of rights’/copyright transferring
the rights from Upper Branch Productions, Inc. to RDFRS on

1 several of the DVD titles.:"

2 A copy of this email was subsequently produced by Upper Branch, et al., to Dawkins
3 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000792.
4

5 38. In reasonable reliance upon the foregoing material representations and
6 assurances from Robin Cornwell, on behalf of Richard Dawkins and RDF, that Upper Branch
7 would be compensated for inventory as well as the financial, legal, and tax liabilities it
8 incurred as a result of the conveyance of the Store operations, RDF, under the guise of such
9 agreement requested and received from Upper Branch all proprietary details concerning the
10 Store operations, inventory and assets, thereby enabling RDF to abscond with the Store
11 operations, inventory and assets from Upper Branch without compensating Upper Branch for
12 any of the inventory, financial, legal, and tax liabilities, as was agreed.

13 39. At the time all of the above representations were made by Richard Dawkins and
14 Robin Cornwell on behalf of Richard Dawkins and RDF, Robin Cornwell knew that the
15 representations were false when made, or that Robin Cornwell made the representations
16 recklessly and without regard for their truth. At the time these representations were made,
17 Josh Timonen and Maureen Norton for Upper Branch were ignorant of the falsity of these
18 representations and reasonably believed them to be true.

19 40. In reasonable reliance on the representations, and having no reason to believe
20 that such representation was false in any way, Upper Branch was induced to perform and did
21 perform completely by, inter alia, handing over all proprietary details concerning the Store
22 operations, inventory and assets, to RDF, and assigning to RDF the Upper Branch Store
23 operations, inventory, and assets, including two (2) written copyright assignments for certain
24 Works, before Upper Branch was ever compensated for the inventory as well as the financial,
25 legal, and tax liabilities they incurred as a result of said assignment, as promised.

26 41. Upper Branch's reliance on the representations by Robin Cornwell on behalf of
27 Richard Dawkins and RDF was justified because Robin Cornwell expressly asserted her
28 authority to act on behalf of Richard Dawkins and RDF, and Robin Cornwell confirmed that

1 she had legal and institutional authority to make the promise she made on behalf of Richard
2 Dawkins and RDF.

3 42. It was only after Upper Branch fully performed that it discovered Robin
4 Cornwell, Richard Dawkins, and RDF had no intention of compensating Upper Branch for the
5 inventory, incurred financial, legal, and tax liabilities, as promised. Had it known these true
6 facts, Upper Branch would not have rendered performance as agreed.

7 43. Moreover, Upper Branch is informed and believes that in the furtherance of such
8 fraud, that the BCC's tax treatment of Richard Dawkins' website was misrepresented by
9 Dawkins and Cornwell as well given their violation of an Order by the Los Angeles Superior
10 Court in EC054190, see *infra* at 57, *et seq.*, to produce evidence in support of such claims.

11 44. Without any legal right or justification, Robin Cornwell, Richard Dawkins, and
12 RDF fraudulently acquired the Upper Branch Store operation, inventory, and assets, including
13 tangible copies of all Upper Branch Works and written copyright assignments for two (2) of
14 the Works, and Mike Cornwell and RDF Store are now operating the Store from Mike
15 Cornwell's home residence, selling Upper Branch inventory and assets to the public, without
16 ever having compensated Upper Branch for the inventory, and its incurred financial, legal, and
17 tax liabilities, as promised.

18 45. Timonen and Norton reasonably having no reason to believe that such telephone
19 and email representations made by Dawkins and Robin Cornwell on behalf of Defendant RDF
20 were false in any way, were on behalf of Plaintiff induced in Los Angeles, California to
21 perform and did perform completely in or about June 2010 by, inter alia, permitting Defendant
22 RDF (through Robin Cornwell, Mike Cornwell, and Greg Langer) to take physical possession
23 of Plaintiff's inventory from Los Angeles, California, including tangible copies of the Works,
24 and assigning to RDF certain of Plaintiff's assets including written copyright assignments as to
25 certain of the Works, including those attached hereto in **Exhibit "B,"** before Plaintiff was ever
26 paid any of the agreed upon and promised monetary consideration for its inventory, the
27 transfer thereof, or for Plaintiff's incurred costs and liabilities, as promised by these
28 Defendants. Attached hereto and incorporated by reference herein as **Exhibit "B"** are true and

1 correct copies of the two (2) short form copyright assignments Plaintiff executed in Los
2 Angeles, California in favor of RDF in reliance upon such misrepresentations.

3 46. At the time the representations were made and Plaintiff entered into the
4 agreement, and at subsequent times when Robin Cornwell and RDF agents Mike Cornwell and
5 Greg Langer on behalf of RDF took physical possession in Los Angeles, California of
6 Plaintiff's assets including written copyright assignments to two works specified below,
7 Timonen and Norton on behalf of Plaintiff did not know the material representations or
8 material omissions of fact by Dawkins, Robin Cornwell, Mike Cornwell and Greg Langer on
9 behalf of Defendant RDF were false, but believed them to be true and reasonably relied on
10 them. Had they known the true facts, they would not have rendered performance on behalf of
11 Plaintiff without consideration.

12 47. It was only after Plaintiff fully performed in Los Angeles, California the
13 agreement, and all of such inventory had been removed from Plaintiff's place of business in
14 Los Angeles, that they discovered Defendant RDF had no intention of "buy[ing] out the store"
15 or providing the promised consideration or paying the agreed consideration to Plaintiff for its
16 inventory, the transfer thereof, including the costs and liabilities incurred by Plaintiff as a
17 result of the conveyance, transfer and assignment of assets to RDF and related matters, as
18 promised by Defendants.

19 48. Without any legal right or justification and in contravention of the contractual
20 agreement between the parties, Defendant RDF fraudulently acquired Plaintiff's assets,
21 including Plaintiff's inventory consisting of Plaintiff's tangible copies of the Works, inter alia,
22 and copyright assignments attached hereto as **Exhibit "B,"** and commenced selling Plaintiff's
23 assets to the public, including unauthorized copies of Plaintiff's copyrighted Works, without
24 ever having provided the promised monetary consideration or compensation to Plaintiff, as
25 promised by Defendants to Timonen and Norton on behalf of Plaintiff in Los Angeles.

26 49. Apart from the two short form copyright assignments attached hereto as **Exhibit**
27 **"B,"** pertaining to those Works entitled "Atheist Alliance International (AAI) 2007"
28 (PA1609844, 2007) and "Pat Condell Anthology Feb. 2007 - Feb. 2008" (PA1646005, 2008),

1 which were obtained on the basis of the fraud of Defendants herein, and which Upper Branch
2 seeks to rescind, there are no other documents purportedly transferring any of Plaintiff's
3 copyright interests in or to any of the Works to Defendants RDF.

4 50. The apparent consent of Upper Branch to the assignment of Upper Branch Store
5 operations, inventory, and assets, and the subsequent execution of two (2) written copyright
6 assignments, was not real, mutual, or free in that it was obtained through fraud as herein
7 alleged.

8 51. Any and all apparent consent of Upper Branch to the assignment of Upper
9 Branch Store operations, inventory, and assets, and execution of two (2) written copyright
10 assignments, was obtained from Upper Branch solely through the fraud of Robin Cornwell on
11 behalf of Richard Dawkins and RDF. Significantly, Upper Branch would not have agreed to
12 assign the Store operations, inventory, and assets for free, had it not been for the fraud of
13 Robin Cornwell on behalf of Richard Dawkins and RDF.

14 52. Defendants now wrongfully exercise dominion over the Upper Branch Store
15 operations, inventory, and assets, including tangible copies of the Upper Branch Works.

16 53. Upper Branch rightfully owns the Store operations, inventory, and assets,
17 including the tangible copies of the Upper Branch Works.

18 54. Defendants intentionally took possession of the Upper Branch Store operations,
19 inventory, and assets, including the Upper Branch Works, and then refused to pay Upper
20 Branch for their conveyance of the same.

21 55. RDF is now operating the Upper Branch Store and exploiting the Upper Branch
22 Store inventory and assets to the public through the Internet, inter alia.

23 56. Due to the fraud of Defendants (except IWI), much of which occurred in Los
24 Angeles, no consideration supports any transfer, conveyance or assignment of any copyrights
25 in the Works to Defendants (except IWI).

26 57. In or about October, 2010, Dawkins and RDF filed and served a civil complaint
27 ("Complaint") against Upper Branch, *et al.*, in Los Angeles Superior Court ("LASC" or
28 "Court"), bearing case no. EC054190, alleging multiple causes of action, for: (1) Breach of

1 Oral Contract; (2) Breach of the Implied Covenant of Good Faith and Fair Dealing; (3) Breach
2 of Fiduciary Duty; (4) Fraud; (5) Embezzlement; (6) Declaratory Relief; and (7) Imposition of
3 Constructive Trust.

4 58. The “Embezzlement” cause of action recited five sections of the California Penal
5 Code (Sections 503, 504, 506, 507, 508, and 532(a)) which Dawkins and RDF claimed were
6 violated by the alleged conduct of Upper Branch, *et al.*, in operation of the Upper Branch
7 Store.

8 59. Richard Dawkins and RDF then published a copy of this Complaint on RDF’s
9 website, in their bid to wage a very distasteful public internet smear campaign against Upper
10 Branch, *et al.*, on their offensive claims of criminality, including the purported violations of
11 Penal Code provisions contained in the civil Complaint.

12 60. The Declaratory Relief claim falsely alleged that the Works, and other
13 intellectual property created by Upper Branch and Josh Timonen were “works for hire” for
14 RDF, and alleged a dispute with Mr. Timonen and Upper Branch over ownership of these
15 Works and other intellectual property, and sought a declaration that such Works and materials
16 and intellectual property belonged to RDF.

17 61. Upper Branch, *et al.*, took issue with this Complaint, *inter alia*, because the
18 questions of copyright ownership raised in the complaint for the Works in question could not
19 be “works for hire” for RDF because Mr. Timonen and Upper Branch were never employees
20 of RDF, and because there was no written agreement marking these “works for hire” as
21 required by U.S. Copyright Law.

22 62. In response, Dawkins and RDF amended their Complaint in EC054190,
23 materially altering the prior allegation of ownership of the Works as “works for hire” to newly
24 allege the existence of a non-exclusive license and acknowledged that the Works were owned
25 by Upper Branch. This amended complaint also alleged a new cause of action for Interference
26 with Prospective Economic Advantage in substitution for the Declaratory Relief claim based
27 upon Upper Branch’s assertion of its rights, as copyright owner of the Works, to Idea Media,
28 the laboratory holding physical materials embodying the Works and supplying unauthorized

1 copies to RDF and Dawkins.

2 63. On January 28, 2011, the Court while granting a demurrer instructed RDF and
3 Dawkins to replead their criminal “Embezzlement” claim as a recognized civil claim.

4 64. Flouting the Court’s instructions, RDF and Dawkins filed a second amended
5 complaint in EC054190, again filed a criminal “Embezzlement” claim and added a new,
6 second “criminal” claim for “Larceny.”

7 65. In EC054190, RDF and Dawkins admitted that it was “illegal” for RDF to own
8 and operate an for-profit online store merchandising operation because of restrictions imposed
9 upon RDF by the BCC. However, RDF and Dawkins also changed once again their
10 allegations in this regard, as well, alleging instead in their second amended complaint, and for
11 the first time in EC054190, that the Trustees of RDF only “believed” that a direct operation of
12 the a for-profit online store merchandising operation by RDF was “legally impermissible” but
13 that their purported belief was “incorrect” due to erroneous advice from counsel.

14 66. Upper Branch is informed and believes that that the BCC’s tax treatment of
15 Richard Dawkins’ website, e.g. supra at 15 and 25, was misrepresented by Richard Dawkins
16 and Robin Cornwell as well given their violation of an Order by the Los Angeles Superior
17 Court in EC054190 to produce evidence in support of such claims.

18 67. On May 7, 2011, the Court dismissed with prejudice RDF and Dawkins’
19 “criminal” claims for Embezzlement and Larceny. At the hearing, the Court questioned
20 counsel for RDF and Dawkins as to why a civil claim for conversion was not pled, and in
21 response, counsel for RDF and Dawkins stated that it was a “tactical” decision for RDF and
22 Dawkins.

23 68. Richard Dawkins, RDF, and their counsel in EC054190 were sanctioned by the
24 Court for their failure to comply with their discovery obligations in refusing to produce
25 requisite documents in support of their purported claims in EC054190. An order compelling
26 production of numerous document categories without objections or privilege was issued but
27 not complied with. Accordingly, a motion for terminating sanctions, and alternatively issue
28 sanctions and evidentiary sanctions was pending and set for hearing when Richard Dawkins

1 and RDF purported to dismiss their Complaint in EC054190.

2 69. On August 3, 2011, Dawkins and RDF dismissed their complaint in EC054190
3 with prejudice and a costs judgment was subsequently entered in favor of Upper Branch, *et al.*
4 in EC054190.

5 70. According to a string of email communications collectively attached hereto as
6 **Exhibit “C,”** starting in or about June 2010, Richard Dawkins by and through Robin Cornwell
7 and Mike Cornwell requested Andrew Chalkey to begin deleting Josh Timonen’s name from
8 authorship of articles posted on RDF’s website that referenced the Works created by Upper
9 Branch, *inter alia*. In October, 2010, Richard Dawkins also appears to have later lamented to
10 Andrew Chalkey: “I feel strongly that it was wrong to ask you to delete Josh’s name from
11 authorship of articles. It is simply a matter of historical fact that he wrote them”.

12 71. At such time, Andrew Chalkley was an independent contractor performing
13 website/internet services for both Richard Dawkins Ltd UK and RDF in the UK, who had
14 worked with Josh Timonen on website projects for Richard Dawkins personally and RDF,
15 such as RichardDawkins.net, RichardDawkinsFoundation.org, OutCampaign.org, among
16 others.

17 72. Further, according to the email communications collectively attached hereto as
18 **Exhibit “C,”** on or about June 23, 2010, Mike Cornwell emailed Andrew Chalkley, copying
19 Robin Cornwell:

20 This all getting very messy legal wise. We need to update/sanitize
21 other references as well[.] As an example this video which has a
22 “By Josh Timonen” needs to say “Presented by RDFRS” . . . all of
23 these . . . should replace Josh’s name with presented by the Richard
24 Dawkins Foundation. On ones with someone else listed, like Judy
25 Diamond . . . then her name should go before ‘presented by the
26 Richard Dawkins Foundation’ many of them already have an
27 RDFRS credit so just need to delete reference to Josh.

28 73. According to RDF’s website <richarddawkins.net>, Robin Cornwell is now
representing to the public that she is to be credited with the creation of the Upper Branch
Works, i.e. “[h]er innovative ideas include... the Four Horsemen and other DVDs”. See

1 <http://www.richarddawkins.net/home/about>.

2 **Upper Branch Cease and Desist Demands and Defendants Subsequent Copyright**
 3 **Infringement of Upper Branch Works**

4 74. Between the years 2007 and 2010, Upper Branch had deposited “master” copies
 5 of Upper Branch Works and “master” computer files of the artwork created by Upper Branch
 6 to accompany the Works with Idea Media, with advance instruction that from those master
 7 copies and files, Idea Media would create and duplicate copies of the Works on a per-order
 8 basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these
 9 master copies and files provided RDF with access to these Works.

10 75. RDF and Richard Dawkins produced documents to Upper Branch in EC054190
 11 that evidenced email communications among Idea Media, Robin Cornwell, and Mike
 12 Cornwell, concerning these individual Defendants’ requests for copies of the DVDs,
 13 representations that RDF owned the copyrights in the DVDs, requests for removal of Upper
 14 Branch’s copyright and logo from the packaging of the DVDs, and the submission of new
 15 artwork files for Idea Media to create and utilize in connection with the unauthorized copies of
 16 Upper Branch’s DVDs that Idea Media agreed to produce for RDF’s payment, despite specific
 17 notice from Upper Branch that all of the above actions were not authorized by Upper Branch.

18 76. Specifically, the produced emails evidenced that:

19 (a) On Thursday, June 17, 2010, at 10:42 AM, Mark Steiner of Idea Media
 20 wrote to Mike Cornwell confirming an order for 1,000 copies of “The Four Horsemen” (a
 21 work copyrighted by Upper Branch), and the request for removal of Upper Branch’s logo from
 22 the DVD wrap:

23 “Hello Mike,

24 It was nice meeting you today. I’m sorry Tom Walsh isn’t currently in the office
 25 to assist. He’ll be in the office on Monday.

26 ...

27 We’ll get an exact (almost exact see below) repress of 1,000 “The 4 Horsemen”
 28 retail ready DVD9’s underway for you right away.

We will remove the upperbranch logo from the DVD wrap and reproof it for
 you...

This DVD also contains a 4 panel 4/4 insert... please confirm that there are no

1 changes to this artwork.”

2
3 (RDFRS, et al. DOX 1 -- 003657.)

4
5 (b) On June 21, 2010, at 11:53 AM MDT, Tom Walsh of Idea Media wrote to
6 Mike Cornwell, copying Mark Steiner:

7
8 “Hi Mike,
9 I am checking to see if we still have the “original” artwork files...
10 We still have the artwork plates and films created but we might not
11 be able to remove the logo. UNLESS we still have the original
12 artwork files.. I should know shortly.”

13
14 (RDFRS, et al. DOX 1 -- 003659.)

15 (c) On June 21, 2010, at 12:43 PM, Mike Cornwell wrote to Tom Walsh at
16 Idea Media, copying Mark Steiner: “I thought you had all of the artwork and I just need to
17 proof it after you removed the Upper Branch logo.” (RDFRS, et al. DOX 1 -- 003659.)

18 (d) On June 21, 2010, at 2:03 PM MDT, Tom Walsh of Idea Media wrote to
19 Mike Cornwell: “Ok I found the old artwork but they are flattened PDF files so all I can do is
20 “black out” over the logo”. (RDFRS, et al. DOX 1 -- 003665.)

21
22 (e) On June 22, 2010, at 7:48 AM, Maureen Norton of Upper Branch wrote
23 to Tom Walsh of Idea Media: “Hi Tom, Has anyone contacted you from The Richard Dawkins
24 Foundation...? Please be advised that if anyone places a direct order with you for one of our
25 titles it needs to be approved by us first. Thanks, Maureen”. (RDFRS, et al. DOX 1 --
26 003679.)

27
28 (f) On June 22, 2010, at 9:31 AM, Tom Walsh of Idea Media wrote to

1 Maureen Norton of Upper Branch: "Hi Maureen, Yes they just placed a re-order. I cannot be
2 in the middle of your issues though." (RDFRS, et al. DOX 1 -- 003678 through RDFRS, et al.
3 DOX 1 -- 003679.)
4

5 (g) On June 22, 2010, at 11:49 AM, Maureen Norton of Upper Branch wrote
6 to Tom Walsh of Idea Media: "The contract for these titles is with Upper Branch so you do
7 need to be in the middle... We are not authorizing any other companies other than Upper
8 Branch to place orders for these titles." (RDFRS, et al. DOX 1 -- 003678.)
9

10 (h) On June 22, 2010, at 11:10 AM MDT, Tom Walsh of Idea Media wrote to
11 Mike Cornwell: "Please contact Maureen at Upper Branch. She is advising me that all orders
12 need to go through her... I can't get in the middle of this nor do I have time to go back and
13 forth with her. Please contact her and let me know". (RDFRS, et al. DOX 1 -- 003673.)
14

15 (i) On June 22, 2010, at 12:16 PM, Tom Walsh of Idea Media wrote to
16 Maureen Norton of Upper Branch: "Mike [Cornwell] is going to call you to work this out...
17 this job is on hold till I hear back from one of you...thanks" (RDFRS, et al. DOX 1 --
18 003676.)
19

20 (j) Shortly after Tom Walsh of Idea Media forwards the above thread of
21 emails between himself and Maureen Norton, to Robin Cornwell and Mike Cornwell, on June
22 22, 2010, at 1:47 PM, Robin Cornwell wrote to Tom Walsh of Idea Media, carbon copying
23 Steve Gaines, Greg Langer, and Mike Cornwell: " Tom - we own all the DVDs that are
24 associated with the Richard Dawkins Foundation. Just to clarify." (RDFRS, et al. DOX 1 --
25 003681.)
26

27 (k) On June 22, 2010, at 2:51 PM, Tom Walsh of Idea Media wrote to Robin
28 Cornwell in response: "Thank you, Elisabeth... please fill out the order confirmation and

1 [Intellectual Property Rights] form and fax back to me.” (RDFRS, et al. DOX 1 -- 003680.)

2
3 (l) On June 22, 2010, at 1:59 PM, Robin Cornwell wrote to Tom Walsh,
4 copying Mike Cornwell: “Mike is authorized, and he will get that out to you.” (RDFRS, et al.
5 DOX 1 -- 003680.)

6 (m) On November 5, 2010, after Josh Timonen on behalf of Upper Branch
7 sent Idea Media a further cease and desist email, Idea Media forwarded such cease and desist
8 email to RDF Store and requested to be advised about the same. In response, Mike Cornwell
9 wrote to Idea Media: “Josh Timonen does not own legal rights to these.” (RDFRS, et al. DOX
10 1 -- 003717 through RDFRS, et al. DOX 1 -- 003721.)

11
12 77. Indeed, in or about June 2010, and again in or about November 2010, Upper
13 Branch twice demanded Idea Media, and RDF to cease and desist from infringing on Upper
14 Branch’s exclusive rights, that RDF was not authorized to place orders for copies of Upper
15 Branch Works and that Idea Media was not authorized to produce copies of Upper Branch
16 Works for RDF. On both occasions, Josh Timonen and Maureen Norton on behalf of Upper
17 Branch communicated these cease and desist demands to Idea Media in writing by email.

18 78. Starting in or about June 2010, these Defendants began exploiting, reproducing,
19 performing, adapting, selling and distributing the copyrighted material in the Works in DVD
20 format in the United States. Unless enjoined or restrained, Defendants’ conduct threatens to
21 further infringe Plaintiff’s copyright interests.

22 79. Plaintiff has notified Defendants that they are not authorized to exploit,
23 reproduce, adapt, distribute, sell, and/or perform Plaintiff’s Works, or any of them, and
24 Plaintiff has demanded that they cease and desist from any such potential infringement of
25 Plaintiff’s exclusive rights under 17 U.S.C. § 106 in and to the Works, but Plaintiff is informed
26 and believes and on that basis alleges that Defendants continue to maintain otherwise
27 including their right to continue distributing and exploiting the Works without Plaintiff’s
28 authorization and in infringement of Plaintiff’s exclusive rights.

1 80. None of the Defendants are authorized by Plaintiff to exploit, reproduce, adapt,
2 distribute, sell, and/or perform Plaintiff's Works, or any of them.

3 81. Plaintiff is informed and believes and on that basis alleges that Defendant IWI
4 has infringed Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works by
5 exploiting, reproducing, performing, adapting, selling and/or distributing, without proper
6 authorization, Plaintiff's Works, to and/or for Defendants RDF and RDF Store, so that these
7 Defendants can exploit, reproduce, perform, adapt, sell and/or distribute these unauthorized
8 copies of Plaintiff's Works to the public via Defendant RDF and/or RDF Store's website, on
9 the internet, and at conventions, and public lectures, among other ways, in further infringement
10 of Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works.

11 82. Plaintiff is informed and believes and on that basis alleges with respect to the
12 direct infringement by Defendant IWI of Plaintiff's exclusive rights under 17 U.S.C. § 106 in
13 and to the Works, Defendants RDF and RDF Store are vicariously infringing the Works.
14 Plaintiff is informed and believes and on that basis alleges that Defendants RDF and/or RDF
15 Store are profiting directly from the infringing activity of Defendant IWI because these
16 Defendants by and through Robin Cornwell and/or Mike Cornwell place orders with IWI for
17 copies of the Works and thereafter sell the same to the public for profit, *inter alia*. As a result,
18 these Defendants have the right and ability to control the infringing activity of Defendant IWI,
19 and they exercise that right and ability by infringing on Upper Branch Works.

20 83. Plaintiff is informed and believes and on that basis alleges with respect to the
21 direct infringement by Defendant IWI of Plaintiff's exclusive rights under 17 U.S.C. § 106 in
22 and to the Works, Defendants RDF, RDF Store, Robin Cornwell, and Mike Cornwell have
23 directed and materially contributed to the same. Plaintiff is informed and believes and on that
24 basis alleges that these Defendants have falsely represented to IWI that RDF is the copyright
25 owner of the Works in order to induce IWI to manufacture copies of Plaintiff's Works for
26 RDF and/or RDF Store, and have instructed IWI to remove and/or "black out" Plaintiff's logo
27 from the artwork accompanying the DVD packaging of certain Works, and/or attach "new
28 artwork or packaging" created by RDF to Plaintiff's Works, *inter alia*. Plaintiff is informed

1 and believes and on that basis alleges that these Defendants knew or had reason to know of the
2 infringing activity of IWI but took steps to avoid acknowledging the infringing activity and
3 instead intentionally induced and/or materially contributed to IWI's infringing activity.

4 84. Plaintiff is informed and believes and on that basis alleges with respect to the
5 direct infringement by Defendants RDF and RDF Store of Plaintiff's exclusive rights under 17
6 U.S.C. § 106 in and to the Works, Defendants Robin Cornwell and Mike Cornwell are
7 vicariously infringing the Works because these Defendants are procuring unauthorized copies
8 of the Works for RDF and RDF Store, Robin Cornwell is now taking credit for the "idea" of
9 these Works which Robin Cornwell has admitted are centrally important to the goal and
10 purpose of RDF, Mike Cornwell is selling copies of these Works out of his residential home
11 address which houses the RDF Store operation, these Works are the primary goods sold
12 through the RDF Store, and these individual Defendants are directing and/or supervising RDF
13 and RDF Store's sales, distributions and/or exploitation of the unauthorized copies of the
14 Works to the public.

15 85. Plaintiff is informed and believes and on that basis alleges with respect to the
16 direct infringement by Defendants RDF and RDF Store of Plaintiff's exclusive rights under 17
17 U.S.C. § 106 in and to the Works, Defendants IWI, Robin Cornwell, and Mike Cornwell have
18 directed and/or materially contributed to the same. Plaintiff is informed and believes and on
19 that basis alleges that these Defendants knew or had reason to know of the infringing activity
20 of RDF and RDF Store but took steps to avoid acknowledging the infringing activity and
21 instead intentionally induced and/or materially contributed to the infringing activity of RDF
22 and RDF Store.

23 86. Defendants acts of direct and indirect copyright infringement of Plaintiff's
24 exclusive rights under 17 U.S.C. § 106 in and to the Works have been willful, intentional, and
25 purposeful, in knowing disregard of Plaintiff's rights under the Copyright Act.

26 87. By reason of the Defendants' infringement and threatened infringement, Plaintiff
27 has sustained and will continue to sustain substantial injury, loss and damage to their
28 ownership rights in the Works.

1 88. Further irreparable harm to Plaintiff is imminent as a result of Defendants'
2 conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is entitled to an
3 injunction restraining Defendants, their officers, directors, agents, employees, representatives
4 and all persons acting in concert with them from engaging in further such acts of copyright
5 infringement.

6 89. Plaintiff is further entitled to recover from Defendants the damages sustained by
7 Plaintiff as a result of Defendants' acts of copyright infringement. Plaintiff is at present
8 unable to ascertain the full extent of the monetary damage it has suffered by reason of
9 Defendants' acts of copyright infringement, but Plaintiff is informed and believes, and on the
10 basis of such information and belief alleges, that Plaintiff has sustained damage in an amount
11 exceeding \$500,000.

12 90. Plaintiff is further entitled to recover from Defendants the gains, profits and
13 advantages it has obtained as a result of its acts of copyright infringement. Plaintiff is at
14 present unable to ascertain the full extent of the gains, profits and advantages Defendants have
15 obtained by reason of their acts of copyright infringement, but Plaintiff is informed and
16 believes, and on the basis of such information and belief alleges, that Defendants have
17 obtained such gains, profits and advantages in an amount exceeding \$500,000.
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CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

**(DIRECT COPYRIGHT INFRINGEMENT IN VIOLATION OF THE COPYRIGHT
ACT, 17 U.S.C. §§ 101, *ET SEQ.*)**

[Against Defendants IWI, RDF, and RDF Store]

91. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90, inclusive, as if fully set forth herein.

92. Plaintiff owns valid and registered copyrights in and to each of the fifteen (15) DVDs, artwork, DVD menus, and other audiovisual works at issue here, and these works are described in the copyright certificates collectively attached hereto as **Exhibit “A.”** Each such work contains a large number of creative elements wholly original to Plaintiff, which are copyrightable subject matter under the laws of the United States (hereafter, such works shall be collectively referred to as the “Works”).

93. Plaintiff is the assignee of any and all intellectual property rights in the Works including all rights under copyright of Timonen, individually and d/b/a Upper Branch, created prior to the formal incorporation of Plaintiff Upper Branch and the copyright owner of the results and proceeds of Timonen’s services following such incorporation.

94. Between the years 2007 and 2010, Upper Branch had deposited “master” copies of Upper Branch Works and “master” computer files of the artwork created by Upper Branch to accompany the Works with Idea Media, with advance instruction that from those master copies and files, Idea Media would create and duplicate copies of the Works on a per-order basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these master copies and files provided RDF with access to these Works.

95. Between the years 2007 and 2010, Upper Branch had deposited “master” copies of Upper Branch Works and “master” computer files of the artwork created by Upper Branch to accompany the Works with Idea Media, with advance instruction that from those master copies and files, Idea Media would create and duplicate copies of the Works on a per-order basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these

1 master copies and files provided RDF with access to these Works.

2 96. RDF and Richard Dawkins produced documents to Upper Branch in EC054190
3 that evidenced email communications among Idea Media, Robin Cornwell, and Mike
4 Cornwell, concerning these individual Defendants' requests for copies of the DVDs,
5 representations that RDF owned the copyrights in the DVDs, requests for removal of Upper
6 Branch's copyright and logo from the packaging of the DVDs, and the submission of new
7 artwork files for Idea Media to create and utilize in connection with the unauthorized copies of
8 Upper Branch's DVDs that Idea Media agreed to produce for RDF's payment, despite specific
9 notice from Upper Branch that all of the above actions were not authorized by Upper Branch.

10 97. Specifically, the produced emails evidenced that:

11 (a) On Thursday, June 17, 2010, at 10:42 AM, Mark Steiner of Idea Media
12 wrote to Mike Cornwell confirming an order for 1,000 copies of "The Four Horsemen" (a
13 work copyrighted by Upper Branch), and the request for removal of Upper Branch's logo from
14 the DVD wrap:

15 "Hello Mike,
16 It was nice meeting you today. I'm sorry Tom Walsh isn't currently in the office
17 to assist. He'll be in the office on Monday.

18 ...
19 We'll get an exact (almost exact see below) repress of 1,000 "The 4 Horsemen"
20 retail ready DVD9's underway for you right away.

21 We will remove the upperbrach logo from the DVD wrap and reproof it for
22 you...

23 This DVD also contains a 4 panel 4/4 insert... please confirm that there are no
24 changes to this artwork."

25 (RDFRS, et al. DOX 1 -- 003657.)

26 (b) On June 21, 2010, at 11:53 AM MDT, Tom Walsh of Idea Media wrote to
27 Mike Cornwell, copying Mark Steiner:

28 "Hi Mike,
I am checking to see if we still have the "original" artwork files...

1 We still have the artwork plates and films created but we might not
2 be able to remove the logo. UNLESS we still have the original
3 artwork files.. I should know shortly.”

4 (RDFRS, et al. DOX 1 -- 003659.)

5
6 (c) On June 21, 2010, at 12:43 PM, Mike Cornwell wrote to Tom Walsh at
7 Idea Media, copying Mark Steiner: “I thought you had all of the artwork and I just need to
8 proof it after you removed the Upper Branch logo.” (RDFRS, et al. DOX 1 -- 003659.)

9
10 (d) On June 21, 2010, at 2:03 PM MDT, Tom Walsh of Idea Media wrote to
11 Mike Cornwell: “Ok I found the old artwork but they are flattened PDF files so all I can do is
12 “black out” over the logo”. (RDFRS, et al. DOX 1 -- 003665.)

13
14 (e) On June 22, 2010, at 7:48 AM, Maureen Norton of Upper Branch wrote
15 to Tom Walsh of Idea Media: “Hi Tom, Has anyone contacted you from The Richard Dawkins
16 Foundation...? Please be advised that if anyone places a direct order with you for one of our
17 titles it needs to be approved by us first. Thanks, Maureen”. (RDFRS, et al. DOX 1 --
18 003679.)

19
20 (f) On June 22, 2010, at 9:31 AM, Tom Walsh of Idea Media wrote to
21 Maureen Norton of Upper Branch: “Hi Maureen, Yes they just placed a re-order. I cannot be
22 in the middle of your issues though.” (RDFRS, et al. DOX 1 -- 003678 through RDFRS, et al.
23 DOX 1 -- 003679.)

24
25 (g) On June 22, 2010, at 11:49 AM, Maureen Norton of Upper Branch wrote
26 to Tom Walsh of Idea Media: “The contract for these titles is with Upper Branch so you do
27 need to be in the middle... We are not authorizing any other companies other than Upper
28 Branch to place orders for these titles.” (RDFRS, et al. DOX 1 -- 003678.)

1
2 (h) On June 22, 2010, at 11:10 AM MDT, Tom Walsh of Idea Media wrote to
3 Mike Cornwell: "Please contact Maureen at Upper Branch. She is advising me that all orders
4 need to go through her... I can't get in the middle of this nor do I have time to go back and
5 forth with her. Please contact her and let me know". (RDFRS, et al. DOX 1 -- 003673.)
6

7 (i) On June 22, 2010, at 12:16 PM, Tom Walsh of Idea Media wrote to
8 Maureen Norton of Upper Branch: "Mike [Cornwell] is going to call you to work this out...
9 this job is on hold till I hear back from one of you...thanks" (RDFRS, et al. DOX 1 --
10 003676.)
11

12 (j) Shortly after Tom Walsh of Idea Media forwards the above thread of
13 emails between himself and Maureen Norton, to Robin Cornwell and Mike Cornwell, on June
14 22, 2010, at 1:47 PM, Robin Cornwell wrote to Tom Walsh of Idea Media, carbon copying
15 Steve Gaines, Greg Langer, and Mike Cornwell: " Tom - we own all the DVDs that are
16 associated with the Richard Dawkins Foundation. Just to clarify." (RDFRS, et al. DOX 1 --
17 003681.)
18

19 (k) On June 22, 2010, at 2:51 PM, Tom Walsh of Idea Media wrote to Robin
20 Cornwell in response: "Thank you, Elisabeth... please fill out the order confirmation and
21 [Intellectual Property Rights] form and fax back to me." (RDFRS, et al. DOX 1 -- 003680.)
22

23 (l) On June 22, 2010, at 1:59 PM, Robin Cornwell wrote to Tom Walsh,
24 copying Mike Cornwell: "Mike is authorized, and he will get that out to you." (RDFRS, et al.
25 DOX 1 -- 003680.)
26

27 (m) On November 5, 2010, after Josh Timonen on behalf of Upper Branch
28 sent Idea Media a further cease and desist email, Idea Media forwarded such cease and desist
email to RDF Store and requested to be advised about the same. In response, Mike Cornwell

1 wrote to Idea Media: “Josh Timonen does not own legal rights to these.” (RDFRS, et al. DOX
2 1 -- 003717 through RDFRS, et al. DOX 1 -- 003721.)

3
4 98. Indeed, in or about June 2010, and again in or about November 2010, Upper
5 Branch twice demanded Idea Media, and RDF to cease and desist from infringing on Upper
6 Branch’s exclusive rights, that RDF was not authorized to place orders for copies of Upper
7 Branch Works and that Idea Media was not authorized to produce copies of Upper Branch
8 Works for RDF. On both occasions, Josh Timonen and Maureen Norton on behalf of Upper
9 Branch communicated these cease and desist demands to Idea Media in writing by email.

10 99. Starting in or about June 2010, these Defendants began exploiting, reproducing,
11 performing, adapting, selling and distributing the copyrighted material in the Works in DVD
12 format in the United States. Unless enjoined or restrained, Defendants’ conduct threatens to
13 further infringe Plaintiff’s copyright interests.

14 100. Plaintiff has notified Defendants that they are not authorized to exploit,
15 reproduce, adapt, distribute, sell, and/or perform Plaintiff’s Works, or any of them, and
16 Plaintiff has demanded that they cease and desist from any such potential infringement of
17 Plaintiff’s exclusive rights under 17 U.S.C. § 106 in and to the Works, but Plaintiff is informed
18 and believes and on that basis alleges that Defendants continue to maintain otherwise
19 including their right to continue distributing and exploiting the Works without Plaintiff’s
20 authorization and in infringement of Plaintiff’s exclusive rights.

21 101. None of the Defendants are authorized by Plaintiff to exploit, reproduce, adapt,
22 distribute, sell, and/or perform Plaintiff’s Works, or any of them.

23 102. Plaintiff is informed and believes and on that basis alleges that Defendant IWI
24 has infringed Plaintiff’s exclusive rights under 17 U.S.C. § 106 in and to the Works by
25 exploiting, reproducing, performing, adapting, selling and/or distributing, without proper
26 authorization, Plaintiff’s Works, to and/or for Defendants RDF and RDF Store, so that these
27 Defendants can exploit, reproduce, perform, adapt, sell and/or distribute these unauthorized
28 copies of Plaintiff’s Works to the public via Defendant RDF and/or RDF Store’s website, on

1 the internet, and at conventions, and public lectures, among other ways, in further infringement
2 of Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works.

3 103. Defendants acts of direct copyright infringement of Plaintiff's exclusive rights
4 under 17 U.S.C. § 106 in and to the Works have been willful, intentional, and purposeful, in
5 knowing disregard of Plaintiff's rights under the Copyright Act.

6 104. By reason of the Defendants' infringement and threatened future infringement,
7 Plaintiff has sustained and will contribute to sustain substantial injury, loss and damage to
8 their ownership rights in the Works.

9 105. Further irreparable harm to Plaintiff is imminent as a result of Defendants'
10 conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is entitled to an
11 injunction restraining Defendants, their officers, directors, agents, employees, representatives
12 and all persons acting in concert with them from engaging in further such acts of copyright
13 infringement.

14 106. Plaintiff is further entitled to recover from Defendants the damages sustained by
15 Plaintiff as a result of Defendants' acts of copyright infringement. Plaintiff is at present
16 unable to ascertain the full extent of the monetary damage it has suffered by reason of
17 Defendants' acts of copyright infringement, but Plaintiff is informed and believes, and on the
18 basis of such information and belief alleges, that Plaintiff has sustained damage in an amount
19 exceeding \$500,000.

20 107. Plaintiff is further entitled to recover from Defendants the gains, profits and
21 advantages it has obtained as a result of its acts of copyright infringement. Plaintiff is at
22 present unable to ascertain the full extent of the gains, profits and advantages Defendants have
23 obtained by reason of their acts of copyright infringement, but Plaintiff is informed and
24 believes, and on the basis of such information and belief alleges, that Defendants have
25 obtained such gains, profits and advantages in an amount exceeding \$500,000.

SECOND CLAIM FOR RELIEF
(CONTRIBUTORY COPYRIGHT INFRINGEMENT)
[Against ALL Defendants]

108. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90, inclusive, as if fully set forth herein.

109. Plaintiff owns valid and registered copyrights in and to each of the fifteen (15) DVDs, artwork, DVD menus, and other audiovisual works at issue here, and these works are described in the copyright certificates collectively attached hereto as **Exhibit “A.”** Each such work contains a large number of creative elements wholly original to Plaintiff, which are copyrightable subject matter under the laws of the United States (hereafter, such works shall be collectively referred to as the “Works”).

110. Plaintiff is the assignee of any and all intellectual property rights in the Works including all rights under copyright of Timonen, individually and d/b/a Upper Branch, created prior to the formal incorporation of Plaintiff Upper Branch and the copyright owner of the results and proceeds of Timonen’s services following such incorporation.

111. Between the years 2007 and 2010, Upper Branch had deposited “master” copies of Upper Branch Works and “master” computer files of the artwork created by Upper Branch to accompany the Works with Idea Media, with advance instruction that from those master copies and files, Idea Media would create and duplicate copies of the Works on a per-order basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these master copies and files provided RDF with access to these Works.

112. Between the years 2007 and 2010, Upper Branch had deposited “master” copies of Upper Branch Works and “master” computer files of the artwork created by Upper Branch to accompany the Works with Idea Media, with advance instruction that from those master copies and files, Idea Media would create and duplicate copies of the Works on a per-order basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these master copies and files provided RDF with access to these Works.

113. RDF and Richard Dawkins produced documents to Upper Branch in EC054190

1 that evidenced email communications among Idea Media, Robin Cornwell, and Mike
 2 Cornwell, concerning these individual Defendants' requests for copies of the DVDs,
 3 representations that RDF owned the copyrights in the DVDs, requests for removal of Upper
 4 Branch's copyright and logo from the packaging of the DVDs, and the submission of new
 5 artwork files for Idea Media to create and utilize in connection with the unauthorized copies of
 6 Upper Branch's DVDs that Idea Media agreed to produce for RDF's payment, despite specific
 7 notice from Upper Branch that all of the above actions were not authorized by Upper Branch.

8 114. Specifically, the produced emails evidenced that:

9 (a) On Thursday, June 17, 2010, at 10:42 AM, Mark Steiner of Idea Media
 10 wrote to Mike Cornwell confirming an order for 1,000 copies of "The Four Horsemen" (a
 11 work copyrighted by Upper Branch), and the request for removal of Upper Branch's logo from
 12 the DVD wrap:

13 "Hello Mike,

14 It was nice meeting you today. I'm sorry Tom Walsh isn't currently in the office
 to assist. He'll be in the office on Monday.

15 ...

16 We'll get an exact (almost exact see below) repress of 1,000 "The 4 Horsemen"
 retail ready DVD9's underway for you right away.

17 We will remove the upperbrach logo from the DVD wrap and reproof it for
 you...

18 This DVD also contains a 4 panel 4/4 insert... please confirm that there are no
 19 changes to this artwork."

20 (RDFRS, et al. DOX 1 -- 003657.)
 21

22 (b) On June 21, 2010, at 11:53 AM MDT, Tom Walsh of Idea Media wrote to
 23 Mike Cornwell, copying Mark Steiner:
 24

25 "Hi Mike,

26 I am checking to see if we still have the "original" artwork files...

27 We still have the artwork plates and films created but we might not
 28 be able to remove the logo. UNLESS we still have the original
 artwork files.. I should know shortly."

1
2 (RDFRS, et al. DOX 1 -- 003659.)
3

4 (c) On June 21, 2010, at 12:43 PM, Mike Cornwell wrote to Tom Walsh at
5 Idea Media, copying Mark Steiner: "I thought you had all of the artwork and I just need to
6 proof it after you removed the Upper Branch logo." (RDFRS, et al. DOX 1 -- 003659.)
7

8 (d) On June 21, 2010, at 2:03 PM MDT, Tom Walsh of Idea Media wrote to
9 Mike Cornwell: "Ok I found the old artwork but they are flattened PDF files so all I can do is
10 "black out" over the logo". (RDFRS, et al. DOX 1 -- 003665.)
11

12 (e) On June 22, 2010, at 7:48 AM, Maureen Norton of Upper Branch wrote
13 to Tom Walsh of Idea Media: "Hi Tom, Has anyone contacted you from The Richard Dawkins
14 Foundation...? Please be advised that if anyone places a direct order with you for one of our
15 titles it needs to be approved by us first. Thanks, Maureen". (RDFRS, et al. DOX 1 --
16 003679.)
17

18 (f) On June 22, 2010, at 9:31 AM, Tom Walsh of Idea Media wrote to
19 Maureen Norton of Upper Branch: "Hi Maureen, Yes they just placed a re-order. I cannot be
20 in the middle of your issues though." (RDFRS, et al. DOX 1 -- 003678 through RDFRS, et al.
21 DOX 1 -- 003679.)
22

23 (g) On June 22, 2010, at 11:49 AM, Maureen Norton of Upper Branch wrote
24 to Tom Walsh of Idea Media: "The contract for these titles is with Upper Branch so you do
25 need to be in the middle... We are not authorizing any other companies other than Upper
26 Branch to place orders for these titles." (RDFRS, et al. DOX 1 -- 003678.)
27

28 (h) On June 22, 2010, at 11:10 AM MDT, Tom Walsh of Idea Media wrote to

1 Mike Cornwell: "Please contact Maureen at Upper Branch. She is advising me that all orders
2 need to go through her... I can't get in the middle of this nor do I have time to go back and
3 forth with her. Please contact her and let me know". (RDFRS, et al. DOX 1 -- 003673.)
4

5 (i) On June 22, 2010, at 12:16 PM, Tom Walsh of Idea Media wrote to
6 Maureen Norton of Upper Branch: "Mike [Cornwell] is going to call you to work this out...
7 this job is on hold till I hear back from one of you...thanks" (RDFRS, et al. DOX 1 --
8 003676.)
9

10 (j) Shortly after Tom Walsh of Idea Media forwards the above thread of
11 emails between himself and Maureen Norton, to Robin Cornwell and Mike Cornwell, on June
12 22, 2010, at 1:47 PM, Robin Cornwell wrote to Tom Walsh of Idea Media, carbon copying
13 Steve Gaines, Greg Langer, and Mike Cornwell: " Tom - we own all the DVDs that are
14 associated with the Richard Dawkins Foundation. Just to clarify." (RDFRS, et al. DOX 1 --
15 003681.)
16

17 (k) On June 22, 2010, at 2:51 PM, Tom Walsh of Idea Media wrote to Robin
18 Cornwell in response: "Thank you, Elisabeth... please fill out the order confirmation and
19 [Intellectual Property Rights] form and fax back to me." (RDFRS, et al. DOX 1 -- 003680.)
20

21 (l) On June 22, 2010, at 1:59 PM, Robin Cornwell wrote to Tom Walsh,
22 copying Mike Cornwell: "Mike is authorized, and he will get that out to you." (RDFRS, et al.
23 DOX 1 -- 003680.)

24 (m) On November 5, 2010, after Josh Timonen on behalf of Upper Branch
25 sent Idea Media a further cease and desist email, Idea Media forwarded such cease and desist
26 email to RDF Store and requested to be advised about the same. In response, Mike Cornwell
27 wrote to Idea Media: "Josh Timonen does not own legal rights to these." (RDFRS, et al. DOX
28 1 -- 003717 through RDFRS, et al. DOX 1 -- 003721.)

1
2 115. Indeed, in or about June 2010, and again in or about November 2010, Upper
3 Branch twice demanded Idea Media, and RDF to cease and desist from infringing on Upper
4 Branch's exclusive rights, that RDF was not authorized to place orders for copies of Upper
5 Branch Works and that Idea Media was not authorized to produce copies of Upper Branch
6 Works for RDF. On both occasions, Josh Timonen and Maureen Norton on behalf of Upper
7 Branch communicated these cease and desist demands to Idea Media in writing by email.

8 116. Starting in or about June 2010, these Defendants began exploiting, reproducing,
9 performing, adapting, selling and distributing the copyrighted material in the Works in DVD
10 format in the United States. Unless enjoined or restrained, Defendants' conduct threatens to
11 further infringe Plaintiff's copyright interests.

12 117. Plaintiff has notified Defendants that they are not authorized to exploit,
13 reproduce, adapt, distribute, sell, and/or perform Plaintiff's Works, or any of them, and
14 Plaintiff has demanded that they cease and desist from any such potential infringement of
15 Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works, but Plaintiff is informed
16 and believes and on that basis alleges that Defendants continue to maintain otherwise
17 including their right to continue distributing and exploiting the Works without Plaintiff's
18 authorization and in infringement of Plaintiff's exclusive rights.

19 118. None of the Defendants are authorized by Plaintiff to exploit, reproduce, adapt,
20 distribute, sell, and/or perform Plaintiff's Works, or any of them.

21 119. Plaintiff is informed and believes and on that basis alleges that Defendant IWI
22 has infringed Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works by
23 exploiting, reproducing, performing, adapting, selling and/or distributing, without proper
24 authorization, Plaintiff's Works, to and/or for Defendants RDF and RDF Store, so that these
25 Defendants can exploit, reproduce, perform, adapt, sell and/or distribute these unauthorized
26 copies of Plaintiff's Works to the public via Defendant RDF and/or RDF Store's website, on
27 the internet, and at conventions, and public lectures, among other ways, in further infringement
28 of Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works.

1 120. Plaintiff is informed and believes and on that basis alleges with respect to the
2 direct infringement by Defendant IWI of Plaintiff's exclusive rights under 17 U.S.C. § 106 in
3 and to the Works, Defendants RDF, RDF Store, Robin Cornwell, and Mike Cornwell have
4 directed and materially contributed to the same. Plaintiff is informed and believes and on that
5 basis alleges that these Defendants have falsely represented to IWI that RDF is the copyright
6 owner of the Works in order to induce IWI to manufacture copies of Plaintiff's Works for
7 RDF and/or RDF Store, and have instructed IWI to remove and/or "black out" Plaintiff's logo
8 from the artwork accompanying the DVD packaging of certain Works, and/or attach "new
9 artwork or packaging" created by RDF to Plaintiff's Works, *inter alia*. Plaintiff is informed
10 and believes and on that basis alleges that these Defendants knew or had reason to know of the
11 infringing activity of IWI but took steps to avoid acknowledging the infringing activity and
12 instead intentionally induced and/or materially contributed to IWI's infringing activity.

13 121. Plaintiff is informed and believes and on that basis alleges with respect to the
14 direct infringement by Defendants RDF and RDF Store of Plaintiff's exclusive rights under 17
15 U.S.C. § 106 in and to the Works, Defendants IWI, Robin Cornwell, and Mike Cornwell have
16 directed and/or materially contributed to the same. Plaintiff is informed and believes and on
17 that basis alleges that these Defendants knew or had reason to know of the infringing activity
18 of RDF and RDF Store but took steps to avoid acknowledging the infringing activity and
19 instead intentionally induced and/or materially contributed to the infringing activity of RDF
20 and RDF Store.

21 122. Defendants acts of indirect copyright infringement of Plaintiff's exclusive rights
22 under 17 U.S.C. § 106 in and to the Works have been willful, intentional, and purposeful, in
23 knowing disregard of Plaintiff's rights under the Copyright Act.

24 123. By reason of the Defendants' infringement and threatened infringement, Plaintiff
25 has sustained and will contribute to sustain substantial injury, loss and damage to their
26 ownership rights in the Works.

27 124. Further irreparable harm to Plaintiff is imminent as a result of Defendants'
28 conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is entitled to an

1 injunction restraining Defendants, their officers, directors, agents, employees, representatives
 2 and all persons acting in concert with them from engaging in further such acts of copyright
 3 infringement.

4 125. Plaintiff is further entitled to recover from Defendants the damages sustained by
 5 Plaintiff as a result of Defendants' acts of copyright infringement. Plaintiff is at present
 6 unable to ascertain the full extent of the monetary damage it has suffered by reason of
 7 Defendants' acts of copyright infringement, but Plaintiff is informed and believes, and on the
 8 basis of such information and belief alleges, that Plaintiff has sustained damage in an amount
 9 exceeding \$500,000.

10 126. Plaintiff is further entitled to recover from Defendants the gains, profits and
 11 advantages it has obtained as a result of its acts of copyright infringement. Plaintiff is at
 12 present unable to ascertain the full extent of the gains, profits and advantages Defendants have
 13 obtained by reason of their acts of copyright infringement, but Plaintiff is informed and
 14 believes, and on the basis of such information and belief alleges, that Defendants have
 15 obtained such gains, profits and advantages in an amount exceeding \$500,000.

16 **THIRD CLAIM FOR RELIEF**

17 **(VICARIOUS COPYRIGHT INFRINGEMENT)**

18 **[Against ALL Defendants EXCEPT IWI]**

19 127. Plaintiff realleges and incorporates by reference the allegations contained in
 20 Paragraphs 1 through 90, inclusive, as if fully set forth herein.

21 128. Plaintiff owns valid and registered copyrights in and to each of the fifteen (15)
 22 DVDs, artwork, DVD menus, and other audiovisual works at issue here, and these works are
 23 described in the copyright certificates collectively attached hereto as **Exhibit "A."** Each such
 24 work contains a large number of creative elements wholly original to Plaintiff, which are
 25 copyrightable subject matter under the laws of the United States (hereafter, such works shall
 26 be collectively referred to as the "Works").

27 129. Plaintiff is the assignee of any and all intellectual property rights in the Works
 28 including all rights under copyright of Timonen, individually and d/b/a Upper Branch, created

1 prior to the formal incorporation of Plaintiff Upper Branch and the copyright owner of the
2 results and proceeds of Timonen's services following such incorporation.

3 130. Between the years 2007 and 2010, Upper Branch had deposited "master" copies
4 of Upper Branch Works and "master" computer files of the artwork created by Upper Branch
5 to accompany the Works with Idea Media, with advance instruction that from those master
6 copies and files, Idea Media would create and duplicate copies of the Works on a per-order
7 basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these
8 master copies and files provided RDF with access to these Works.

9 131. Between the years 2007 and 2010, Upper Branch had deposited "master" copies
10 of Upper Branch Works and "master" computer files of the artwork created by Upper Branch
11 to accompany the Works with Idea Media, with advance instruction that from those master
12 copies and files, Idea Media would create and duplicate copies of the Works on a per-order
13 basis as authorized by Timonen or Norton on behalf of Upper Branch. The depositing of these
14 master copies and files provided RDF with access to these Works.

15 132. RDF and Richard Dawkins produced documents to Upper Branch in EC054190
16 that evidenced email communications among Idea Media, Robin Cornwell, and Mike
17 Cornwell, concerning these individual Defendants' requests for copies of the DVDs,
18 representations that RDF owned the copyrights in the DVDs, requests for removal of Upper
19 Branch's copyright and logo from the packaging of the DVDs, and the submission of new
20 artwork files for Idea Media to create and utilize in connection with the unauthorized copies of
21 Upper Branch's DVDs that Idea Media agreed to produce for RDF's payment, despite specific
22 notice from Upper Branch that all of the above actions were not authorized by Upper Branch.

23 133. Specifically, the produced emails evidenced that:

24 (a) On Thursday, June 17, 2010, at 10:42 AM, Mark Steiner of Idea Media
25 wrote to Mike Cornwell confirming an order for 1,000 copies of "The Four Horsemen" (a
26 work copyrighted by Upper Branch), and the request for removal of Upper Branch's logo from
27 the DVD wrap:

28 "Hello Mike,
It was nice meeting you today. I'm sorry Tom Walsh isn't currently in the office

1 to assist. He'll be in the office on Monday.

2 ...

3 We'll get an exact (almost exact see below) repress of 1,000 "The 4 Horsemen"
4 retail ready DVD9's underway for you right away.

5 We will remove the upperbrach logo from the DVD wrap and reproof it for
6 you...

7 This DVD also contains a 4 panel 4/4 insert... please confirm that there are no
8 changes to this artwork."

9 (RDFRS, et al. DOX 1 -- 003657.)

10 (b) On June 21, 2010, at 11:53 AM MDT, Tom Walsh of Idea Media wrote to
11 Mike Cornwell, copying Mark Steiner:

12 "Hi Mike,

13 I am checking to see if we still have the "original" artwork files...

14 We still have the artwork plates and films created but we might not
15 be able to remove the logo. UNLESS we still have the original
16 artwork files.. I should know shortly."

17 (RDFRS, et al. DOX 1 -- 003659.)

18 (c) On June 21, 2010, at 12:43 PM, Mike Cornwell wrote to Tom Walsh at
19 Idea Media, copying Mark Steiner: "I thought you had all of the artwork and I just need to
20 proof it after you removed the Upper Branch logo." (RDFRS, et al. DOX 1 -- 003659.)

21 (d) On June 21, 2010, at 2:03 PM MDT, Tom Walsh of Idea Media wrote to
22 Mike Cornwell: "Ok I found the old artwork but they are flattened PDF files so all I can do is
23 "black out" over the logo". (RDFRS, et al. DOX 1 -- 003665.)

24 (e) On June 22, 2010, at 7:48 AM, Maureen Norton of Upper Branch wrote
25 to Tom Walsh of Idea Media: "Hi Tom, Has anyone contacted you from The Richard Dawkins
26
27
28

1 Foundation...? Please be advised that if anyone places a direct order with you for one of our
2 titles it needs to be approved by us first. Thanks, Maureen”. (RDFRS, et al. DOX 1 --
3 003679.)

4
5 (f) On June 22, 2010, at 9:31 AM, Tom Walsh of Idea Media wrote to
6 Maureen Norton of Upper Branch: “Hi Maureen, Yes they just placed a re-order. I cannot be
7 in the middle of your issues though.” (RDFRS, et al. DOX 1 -- 003678 through RDFRS, et al.
8 DOX 1 -- 003679.)

9
10 (g) On June 22, 2010, at 11:49 AM, Maureen Norton of Upper Branch wrote
11 to Tom Walsh of Idea Media: “The contract for these titles is with Upper Branch so you do
12 need to be in the middle... We are not authorizing any other companies other than Upper
13 Branch to place orders for these titles.” (RDFRS, et al. DOX 1 -- 003678.)

14
15 (h) On June 22, 2010, at 11:10 AM MDT, Tom Walsh of Idea Media wrote to
16 Mike Cornwell: “Please contact Maureen at Upper Branch. She is advising me that all orders
17 need to go through her... I can’t get in the middle of this nor do I have time to go back and
18 forth with her. Please contact her and let me know”. (RDFRS, et al. DOX 1 -- 003673.)

19
20 (i) On June 22, 2010, at 12:16 PM, Tom Walsh of Idea Media wrote to
21 Maureen Norton of Upper Branch: “Mike [Cornwell] is going to call you to work this out...
22 this job is on hold till I hear back from one of you...thanks” (RDFRS, et al. DOX 1 --
23 003676.)

24
25 (j) Shortly after Tom Walsh of Idea Media forwards the above thread of
26 emails between himself and Maureen Norton, to Robin Cornwell and Mike Cornwell, on June
27 22, 2010, at 1:47 PM, Robin Cornwell wrote to Tom Walsh of Idea Media, carbon copying
28 Steve Gaines, Greg Langer, and Mike Cornwell: “ Tom - we own all the DVDs that are

1 associated with the Richard Dawkins Foundation. Just to clarify.” (RDFRS, et al. DOX 1 --
2 003681.)

3
4 (k) On June 22, 2010, at 2:51 PM, Tom Walsh of Idea Media wrote to Robin
5 Cornwell in response: “Thank you, Elisabeth... please fill out the order confirmation and
6 [Intellectual Property Rights] form and fax back to me.” (RDFRS, et al. DOX 1 -- 003680.)

7
8 (l) On June 22, 2010, at 1:59 PM, Robin Cornwell wrote to Tom Walsh,
9 copying Mike Cornwell: “Mike is authorized, and he will get that out to you.” (RDFRS, et al.
10 DOX 1 -- 003680.)

11 (m) On November 5, 2010, after Josh Timonen on behalf of Upper Branch
12 sent Idea Media a further cease and desist email, Idea Media forwarded such cease and desist
13 email to RDF Store and requested to be advised about the same. In response, Mike Cornwell
14 wrote to Idea Media: “Josh Timonen does not own legal rights to these.” (RDFRS, et al. DOX
15 1 -- 003717 through RDFRS, et al. DOX 1 -- 003721.)

16
17 134. Indeed, in or about June 2010, and again in or about November 2010, Upper
18 Branch twice demanded Idea Media, and RDF to cease and desist from infringing on Upper
19 Branch’s exclusive rights, that RDF was not authorized to place orders for copies of Upper
20 Branch Works and that Idea Media was not authorized to produce copies of Upper Branch
21 Works for RDF. On both occasions, Josh Timonen and Maureen Norton on behalf of Upper
22 Branch communicated these cease and desist demands to Idea Media in writing by email.

23 135. Starting in or about June 2010, these Defendants began exploiting, reproducing,
24 performing, adapting, selling and distributing the copyrighted material in the Works in DVD
25 format in the United States. Unless enjoined or restrained, Defendants’ conduct threatens to
26 further infringe Plaintiff’s copyright interests.

27 136. Plaintiff has notified Defendants that they are not authorized to exploit,
28 reproduce, adapt, distribute, sell, and/or perform Plaintiff’s Works, or any of them, and

1 Plaintiff has demanded that they cease and desist from any such potential infringement of
2 Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works, but Plaintiff is informed
3 and believes and on that basis alleges that Defendants continue to maintain otherwise
4 including their right to continue distributing and exploiting the Works without Plaintiff's
5 authorization and in infringement of Plaintiff's exclusive rights.

6 137. None of the Defendants are authorized by Plaintiff to exploit, reproduce, adapt,
7 distribute, sell, and/or perform Plaintiff's Works, or any of them.

8 138. Plaintiff is informed and believes and on that basis alleges that Defendant IWI
9 has infringed Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works by
10 exploiting, reproducing, performing, adapting, selling and/or distributing, without proper
11 authorization, Plaintiff's Works, to and/or for Defendants RDF and RDF Store, so that these
12 Defendants can exploit, reproduce, perform, adapt, sell and/or distribute these unauthorized
13 copies of Plaintiff's Works to the public via Defendant RDF and/or RDF Store's website, on
14 the internet, and at conventions, and public lectures, among other ways, in further infringement
15 of Plaintiff's exclusive rights under 17 U.S.C. § 106 in and to the Works.

16 139. Plaintiff is informed and believes and on that basis alleges with respect to the
17 direct infringement by Defendant IWI of Plaintiff's exclusive rights under 17 U.S.C. § 106 in
18 and to the Works, Defendants RDF and RDF Store are vicariously infringing the Works.
19 Plaintiff is informed and believes and on that basis alleges that Defendants RDF and/or RDF
20 Store are profiting directly from the infringing activity of Defendant IWI because these
21 Defendants by and through Robin Cornwell and/or Mike Cornwell place orders with IWI for
22 copies of the Works and thereafter sell the same to the public for profit, *inter alia*. As a result,
23 these Defendants have the right and ability to control the infringing activity of Defendant IWI,
24 and they exercise that right and ability by infringing on Upper Branch Works.

25 140. Plaintiff is informed and believes and on that basis alleges with respect to the
26 direct infringement by Defendants RDF and RDF Store of Plaintiff's exclusive rights under 17
27 U.S.C. § 106 in and to the Works, Defendants Robin Cornwell and Mike Cornwell are
28 vicariously infringing the Works because these Defendants are procuring unauthorized copies

1 of the Works for RDF and RDF Store, Robin Cornwell is now taking credit for the “idea” of
2 these Works which Robin Cornwell has admitted are centrally important to the goal and
3 purpose of RDF, Mike Cornwell is selling copies of these Works out of his residential home
4 address which houses the RDF Store operation, these Works are the primary goods sold
5 through the RDF Store, and these individual Defendants are directing and/or supervising RDF
6 and RDF Store’s sales, distributions and/or exploitation of the unauthorized copies of the
7 Works to the public.

8 141. Defendants acts of indirect copyright infringement of Plaintiff’s exclusive rights
9 under 17 U.S.C. § 106 in and to the Works have been willful, intentional, and purposeful, in
10 knowing disregard of Plaintiff’s rights under the Copyright Act.

11 142. By reason of the Defendants’ infringement and threatened infringement, Plaintiff
12 has sustained and will continue to sustain substantial injury, loss and damage to their
13 ownership rights in the Works.

14 143. Further irreparable harm to Plaintiff is imminent as a result of Defendants’
15 conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is entitled to an
16 injunction restraining Defendants, their officers, directors, agents, employees, representatives
17 and all persons acting in concert with them from engaging in further such acts of copyright
18 infringement.

19 144. Plaintiff is further entitled to recover from Defendants the damages sustained by
20 Plaintiff as a result of Defendants’ acts of copyright infringement. Plaintiff is at present
21 unable to ascertain the full extent of the monetary damage it has suffered by reason of
22 Defendants’ acts of copyright infringement, but Plaintiff is informed and believes, and on the
23 basis of such information and belief alleges, that Plaintiff has sustained damage in an amount
24 exceeding \$500,000.

25 145. Plaintiff is further entitled to recover from Defendants the gains, profits and
26 advantages it has obtained as a result of its acts of copyright infringement. Plaintiff is at
27 present unable to ascertain the full extent of the gains, profits and advantages Defendants have
28 obtained by reason of their acts of copyright infringement, but Plaintiff is informed and

believes, and on the basis of such information and belief alleges, that Defendants have obtained such gains, profits and advantages in an amount exceeding \$500,000.

FOURTH CLAIM FOR RELIEF

(FRAUD)

[Against Defendants RDF, Dawkins, and Robin Cornwell]

146. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90, inclusive, as if fully set forth herein.

Upper Branch Owned and Operated The Online Store

147. In or about 2006, Josh Timonen and Richard Dawkins orally agreed that Josh Timonen would from Los Angeles, California design and develop a website for Richard Dawkins. Timonen was paid certain independent contractor fees for these website services.

148. During this time, Richard Dawkins represented to Josh Timonen, orally and in writing through emails, that he was attempting to register, and having difficulty registering, RDF in the United Kingdom ("UK") as a registered charity in the UK because the British Charities Commission ("BCC") was concerned over a number of issues, including concerns that RDF would be promoting the works of Dawkins, which, in the BCC's view, would violate BCC regulations in two ways: First, it was relayed that the BCC expressed concern that as a charity organized for educational and scientific purposes, RDF in the UK would be required to present materials related to the issues of religion and creationism in an unbiased, balanced and neutral fashion, whereas Dawkins' works presented views on religion and creationism from a particularly biased perspective. Second, it was also relayed that the BCC was concerned that the sale of Dawkins' works on the RDF website would confer an impermissible private benefit to Dawkins as a platform for promotion of his work.

149. As a result of these asserted BCC "restrictions," Richard Dawkins represented to Josh Timonen that Dawkins would require two websites -- one for Richard Dawkins, personally, and one for RDF, which would link to Dawkins' personal website. Again, Josh Timonen was paid certain independent contractor fees for these website services.

1 150. In or about June 2007, Josh Timonen orally agreed with Richard Dawkins, and
 2 Robin Cornwell (who at the time was only a volunteer for RDF), that Josh Timonen d/b/a
 3 Upper Branch would create and operate, independently and autonomously from Richard
 4 Dawkins and his namesake foundation, RDF, an online store (“Store”), which, in Dawkins’
 5 words was “not directly concerned with RDF[]’[s] activities.”

6 151. In connection therewith, Richard Dawkins permitted Josh Timonen to link the
 7 Upper Branch Store website to Richard Dawkins’ personal website, and although Richard
 8 Dawkins’ personal website was linked to RDF’s website, there was no direct link between the
 9 Upper Branch Store website and RDF’s website.

10 152. At all times hereunder, Upper Branch was an independent business, and Mr.
 11 Timonen autonomously ran and operated Upper Branch, and the Upper Branch Store, which
 12 specialized in selling goods which publicized the issues and causes(s) which were also
 13 supported and advanced by Dawkins and RDF.

14 153. Upper Branch operated the Store from a location within Los Angeles, California.

15 154. On or about July 25, 2007, with respect to the proposed donation of profits to
 16 RDF after payment of business expenses, salaries, benefits and taxes of Upper Branch,
 17 Richard Dawkins <richard.dawkins@zoo.ox.ac.uk> emailed Timonen in Los Angeles, copying
 18 Robin Cornwell <web.master@rdfrs.org>, and represented in writing: **“it’s your baby, your**
 19 **profits, your tax . . . as for whether [Upper Branch] should make a donation to [RDFRS],**
 20 **I don’t think you should feel any moral obligations in that regard.**” (Emphasis added.)
 21 These emails were previously produced to Dawkins and RDF in EC054190, see *infra* at 57, *et*
 22 *seq.*, bates stamped DEF000005 through DEF000009.

23 155. In reasonable reliance upon the foregoing material representations and
 24 assurances from Dawkins and Cornwell, and having no reason to believe that such
 25 representations were false in any way, Timonen was induced to and relied upon the same and
 26 understood that the parties had in fact reached agreement. Indeed, Timonen d/b/a Upper
 27 Branch created and operated the Upper Branch Store, independently and autonomously, until
 28 April 2008, at which point Timonen caused Upper Branch to be formally incorporated and to

1 thereafter independently and autonomously operate the Store until May, 2010. Neither
 2 Richard Dawkins, nor RDF, nor Robin Cornwell provided any capitalization for Upper Branch
 3 or ever paid taxes on its behalf. Neither Richard Dawkins, nor RDF, nor Robin Cornwell were
 4 ever directors, officers, employees or shareholders of Upper Branch either.

5 156. Upper Branch created all of the goods that were sold in the Store, determined
 6 how much those goods would be sold for, paid for all costs associated with the manufacturing
 7 of said goods, as well as all costs of operating the Store, including Upper Branch operating
 8 costs, building lease costs, Upper Branch employee benefits and salary, and all local, state and
 9 federal costs. Upper Branch plowed any excess operating revenues (after expenses) to
 10 expansion of the Store inventory and productions, including the Works, and on one occasion
 11 contributed \$30,000 to the Ayaan Hirsi Ali Security Fund, funneling this charitable
 12 contribution through RDF for tax reasons, only, and not due to any “moral obligation” or other
 13 obligation which Richard Dawkins disclaimed in his email of July 25, 2007, supra at 21.

14 157. Separate and apart from the Store operation, Richard Dawkins requested Josh
 15 Timonen to continue developing and managing the websites for Dawkins and RDF in
 16 exchange for certain independent contractor fees for these separate services.

17 **Richard Dawkins and RDF Fail To Compensate Upper Branch For Upper Branch’s**
 18 **Conveyance of Store Assets and Operations to RDF; Richard Dawkins and RDF Instead**
 19 **File A Civil Lawsuit Against Upper Branch, et al., in Los Angeles Superior Court,**
 20 **Alleging “Criminal” Conduct, Claims Which The Court Later Dismissed With**
 21 **Prejudice.**

22 158. In or about December, 2009, Robin Cornwell and Maureen Norton discussed the
 23 possibility of Upper Branch conveying the Store operations and assets to RDF. Robin
 24 Cornwell had represented to Josh Timonen and Maureen Norton that RDF had obtained its
 25 501(c)(3) status in the United States and, through corporate transactions, had been restructured
 26 and been “uncoupled” from RDF in the UK. It was also relayed that as a result, RDF in the
 27 US was, at that point in time, permitted to begin operating its own “online store” and to profit
 28 from a merchandising enterprise, whereas previously, Plaintiff was led to understand that RDF
 in the US was not permitted to profit from any such merchandising enterprise.

1 159. As a result of the foregoing representations, it was agreed that Upper Branch
2 would convey the Store assets, operations, and inventory, and in exchange, RDF would
3 compensate Upper Branch for its Store inventory as well as the financial, legal, and tax
4 liabilities that had been incurred by Upper Branch and which would be incurred by Upper
5 Branch as a result of the Store conveyance.

6 160. In connection therewith, on December 29, 2009, at 5:34 PM, Robin Cornwell
7 <elizabeth.cornwell@mac.com> on behalf of Richard Dawkins and RDF, emailed Josh
8 Timonen and Maureen Norton:

9 “Hi Josh and Maureen,

10 ...

11 Richard [Dawkins] has agreed to spend some time in the US as soon
12 as his book is finished - and that includes time in Burbank to film
13 vignettes. ... So think about how much time Richard [Dawkins]
14 should spend in Los Angeles...

15 So think about the possibilities of what we need Richard [Dawkins]
16 to do...

17 ...

18 Another thing to think about is whether or not you both want to
19 come out to Colorado to meet with the accounting people. If so we
20 can go over the way to buy out the store and budget for more staff.
21 All very boring I know. . . but necessary. I will try to make it as
22 painless as possible. Your tax accountant will need to be involved,
23 and of course we will cover the additional costs.”

24 A copy of this email was subsequently produced by Upper Branch, *et al.*, to Dawkins
25 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000025.

26 161. In connection therewith, on January 12, 2010, at 8:28 AM, Robin Cornwell
27 <robin.cornwell@gmail.com> on behalf of Richard Dawkins and RDF, emailed Josh
28 Timonen:

 “Hi Josh,

 ...

1 When would be a good time to meet up and go through the grueling
 2 necessity of budgets, buying out the Store, . . . etc.??? Is there a
 3 time in January that would work for you?"

4 A copy of this email exchange was subsequently produced by Upper Branch, *et al.*, to
 5 Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000023 to
 6 DEF000024.

7
 8 162. In connection therewith, on January 27, 2010, at 5:10 PM, Robin Cornwell
 9 <robin.cornwell@gmail.com> on behalf of Richard Dawkins and RDF, emailed Josh Timonen
 10 and Maureen Norton:

11 "Hey,

12 Met with Steve Gaines today to talk about bringing the Store under
 13 RDF[.]. The main thing is to make certain you don't have any
 14 surprise expenses or tax issues in terms of this change over. And,
 15 we want to try to do this fairly quickly.

16 What we need to get is a current inventory and its value.

17 Also, a general idea of what is sold in terms of merchandize... so
 18 perhaps the last three months?

19 ...

20 We should definitely plan on you both coming out [to Colorado] in
 21 March. . . .

22 The other thing we need to do is all the Trademarks: RDF TV, OUT
 23 Campaign, NBGA, Goodness for Goodness' Sake Now that we
 24 are no longer just playing at this Foundation stuff, we have to get our
 25 shit together. What a pain."

26 A copy of this email was subsequently produced by Upper Branch, *et al.*, to Dawkins
 27 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000022.

28 163. In connection therewith, on February 3, 2010, Robin Cornwell on behalf of RDF
 circulated meeting minutes via email to Josh Timonen, Maureen Norton and RDF Trustees,

1 including Richard Dawkins, et al., which represented:

2 “1. Moving the merchandizing, website, and all the film production
3 under RDFRS. Steve [Gaines] will be looking at the particular
4 issues surrounding this transition.

5 ...

6 Concerning this move, it is critical that Upper Branch does not incur
7 any costs, including tax, legal or financial responsibilities.

8 Maureen Norton has provided RDFRS with a current inventory of
9 stock, and current liabilities and revenues. Additionally, she will
10 provide a P & L statement for 2009 in order for us to budget for
11 2010 and beyond.

12 In terms of the DVDs, the most important issue is to put into place
13 all of the legal ownership.”

14 A copy of these meeting minutes were subsequently produced by Upper Branch, et al.,
15 to Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000010 through
16 DEF000016.

17 164. In connection therewith, on or about March 9, 2010, at 3:23 PM, Robin Cornwell
18 circulated by email to Richard Dawkins, Claire Enders, Todd Stiefel, Andy Thomson, among
19 others, and carbon copying Josh Timonen, meeting minutes Robin Cornwell authored to
20 document for the RDF Trustees an in-person meeting among Josh Timonen, Maureen Norton,
21 Robin Cornwell, Jill Chalmers, and Steve Gaines on March 5, 2010. The following was
22 documented in these meeting minutes:

23 **“Upper Branch and the Store**

24 As the Trustees are aware, the British Charities Commission put
25 strict controls on the Foundation’s activities concerning potential
26 benefits to Richard [Dawkins]. Thus, when the US Foundation
27 owned the UK Foundation, the website RichardDawkins.net along
28 with the activit[y] of the selling merchandize was owned and
operated by Upper Branch Productions - a company owned by Josh
Timonen. . . . With the decoupling of the two Foundations, the US
Foundation is free to own the websites and store.

1 . . .

2 To the main point we have two issues: RichardDawkins.net being
3 the website for the US Foundation and moving all the merchandize
4 from the Store to the Foundation. . . .

5 Upper Branch will donate the merchandize to the Foundation. This
6 provides a tax break for Upper Branch, but we must also consider
7 that Upper Branch has been paying taxes and accounting fees while
8 operating the business [over the last three years]. Most of the profits
9 from sales have been plowed into the operation, including new
10 merchandize, filming, editing, and other associated costs such as part
11 time staff.

12 . . .

13 The Store is not only self-sustaining, but has grown substantially.

14 . . .

15 Maureen Norton has prepared and submitted the inventory and the
16 transition of stock should go smoothly.

17 . . .

18 Another matter in this transition is making certain that we have all
19 the appropriate documentation in terms of ownership of the DVD
20 rights, all films, photos, images, logos and properties are assigned to
21 the Foundation.”

22 A copy of these meeting minutes were subsequently produced by Upper Branch, et al.,
23 to Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000026 through
24 DEF000032.

25 165. In connection therewith, on Tuesday, May 18, 2010, the following emails were
26 exchanged between Robin Cornwell <robin.cornwell@mac.com> on behalf of Richard
27 Dawkins and RDF, and Josh Timonen <joshtimonen@gmail.com> on behalf of Upper Branch.
28 These emails were also selectively produced by Richard Dawkins and RDF to Upper Branch,
et al. in EC054190, see infra at 57, *et seq.*, bates stamped RDFRS, et al. DOX 1 -- 000106

1 through RDFRS, et al. DOX 1 -- 000109:

2 (a) At 2:41 PM, Robin Cornwell wrote to Josh Timonen:

3 "Dear Josh,

4 ...

5 As you know, we were in the middle of moving the financial aspects
6 of the Store to the Foundation as well as all the rights of all footage,
7 DVD, logos, as well as hard drives, equipment, insurance, leases,
8 software, maintenance contracts, etc., along with the assumption by
9 RDF of all appropriate liabilities that Upper Branch had.

10 ...

11 When we were discussing the transfer of the Store to the Foundation,
12 you and Maureen both said that neither the Foundation nor Richard
13 owed Upper Branch any funds. It was all a matter of transferring all
14 the property and assets in such a way so that neither you nor Upper
15 Branch would be affected in any negative way regarding taxes. We
16 want to continue in this vein.

17 ...

18 We also need to discuss the finances for the Store since it opened.
19 Maureen kindly sent the [profit and loss statements] for 2009 and
20 2010, but we will need more detail, and for all years of operation.
21 Given our non-profit status and our need to make certain there are no
22 "private inurement" issues, it is in everyone's best interest to work
23 together on this as none of us want to accidentally violate any IRS
24 regulations. Additionally, knowing the historic details of the Store
25 allows us to prepare more accurate budgets for the future.

26 ...

27 I am asking you to please stop copying all the Trustees on your
28 communications and work directly with me on this transition and all
the financial issues. The Trustees are in full agreement on this
request."

(RDFRS, et al. DOX 1 -- 000106 through RDFRS, et al. DOX 1 -- 000109.)

(b) at 2:42 p.m., Robin Cornwell emails Maureen Norton separately:

"Dear Maureen

...

The Trustees have given me the responsibility to direct the transition
and be the point person, along with any assistance from others I may
determine is needed. This is a difficult situation and has been a
tremendous drain on the time and resources of the Trustees. I think

1 we should be able to handle this transition without bringing so many
2 people into the mix. The Trustees have made their decisions and I
3 have been charged to implement it.”

4 (c) at 3:08 p.m., Maureen Norton emails Robin Cornwell:

5 “Our accountant is coming to our office tomorrow to get the books
6 in order. We are in the process of inventorying all of our product
7 and listing all of our outstanding debt. We will have tax liabilities
8 for 2009 and 2010”.

9 (d) at 5:31 p.m., Robin Cornwell responds by reply email to Maureen Norton:

10 “Thank you Maureen, I appreciate your help on these issues.”

11 (e) At 11:35 PM, Josh Timonen wrote to Robin Cornwell:

12 “Hi Robin,

13 I’m working on going through things at our office, organizing equipment, drives,
14 etc. We are also getting paperwork and numbers ready, and I should be able to
15 write you more tomorrow about it all.

16 Josh”

17 (RDFRS, et al. DOX 1 -- 000106.)

18
19
20
21 166. In connection therewith, on Friday, May 21, 2010, the following emails were
22 exchanged between Robin Cornwell <elisabeth.cornwell@mac.com> on behalf of Richard
23 Dawkins and RDF, and Josh Timonen <joshtimonen@gmail.com> on behalf of Upper Branch.
24 These emails were also selectively produced by Richard Dawkins and RDF to Upper Branch,
25 *et al.* in EC054190, see infra at 57, *et seq.*, bates stamped RDFRS, et al. DOX 1 -- 000098
26 through RDFRS, et al. DOX 1 -- 0000101:

27 (f) At 10:37 AM, Robin Cornwell wrote to Josh Timonen:

28 “Josh,

1 . . . Richard [Dawkins] . . .has resigned from being a Trustee of the
2 US Foundation...

3 In order to move forward, I would prefer emailing you directly as
4 you are the owner of Upper Branch. If you choose to make Maureen
5 your authorized agent representing Upper Branch, then I need that in
6 writing from you.

7 Unfortunately, it appears that you feel the Foundation has more
8 financial obligations to you, about which we disagree but we need to
9 sit down and discuss in an open professional manner. Therefore, in
10 order for our accountants to understand the situation, I do need to
11 receive the full disclosure of the Upper Branch financials since you
12 began working with Richard and then later with RDF[.].

13 It would help a great deal if you could clearly lay out one by one
14 what you expect from the Foundation and from Richard [Dawkins]
15 in terms of this transition. Richard [Dawkins] shall be taking a break
16 from the Foundation, and will no longer be consulted on any of the
17 Foundation issues - this is his choice. It has just simply been too
18 much for him. . . .

19 Please let me know how you wish to proceed, I understand that your
20 meeting with Greg [Langer] has been postponed until next week,
21 which we hope will provide you with enough time to have all the
22 financial information of the Store, the projects, and the inventory of
23 the footage, equipment, etc. available. We will have the legal
24 documents for signing over the assets and liabilities for the Store and
25 all other assets . . . One of the things we will need are the bank
26 statements for the Store since its inception. ... Given Richard
27 [Dawkins'] state of mind and his profound sadness of personal loss,
28 he has asked me to be his authorized agent in terms [sic] all
purchases made through his personal funds. He simply does not
want to deal with these matters directly any more. I hope you will
have [sic] enough respect and personal concern for Richard to honor
his request to be left out of these matters."

(RDFRS, et al. DOX 1 -- 000100 to RDFRS, et al. DOX 1 --
000101.)

(g) At 6:15 PM, Robin Cornwell wrote to Josh Timonen:

"...

1 We had offered to accept the lease and we wanted the transition to go
2 smoothly.

3 ...

3 I will be out next week to pick up all the contents, equipment etc. ... I will likely
4 be out on Wednesday and we will pick up everything
5 before the end of the first week of June.

6 ...

6 Our accountants will need to discuss these issues with your accountant. I
7 am sorry you felt that you would be left holding the bag. That was never
8 ever what we intended, and never in a single email did we convey that at
9 any time.”

(RDFRS, et al. DOX 1 -- 000098.)

10 167. In connection therewith, on Monday, May 24, 2010, the following emails were
11 exchanged between Robin Cornwell <elisabeth.cornwell@mac.com> on behalf of Richard
12 Dawkins and RDF, and Josh Timonen <joshtimonen@gmail.com> on behalf of Upper Branch.
13 These emails were also selectively produced by Richard Dawkins and RDF to Upper Branch,
14 *et al.* in EC054190, see infra at 57, *et seq.*, bates stamped RDFRS, et al. DOX 1 -- 000083
15 through RDFRS, et al. DOX 1 -- 000095:

16
17 (h) At 10:36 AM, Josh Timonen wrote to Robin Cornwell:

18 “It isn’t possible for you to come clear out the Store in two days
19 (Wed). In Maureen’s email, she said “the end of the month”. We
20 have now closed down the [S]tore but have 116 pending orders, and
21 we will not leave our customers high and dry. If you could please
22 respond to the specifics of the inventory, that will help us move
23 forward.”

(RDFRS, et al. DOX 1 -- 000095.)

24
25 (i) At 10:14 AM MDT, Robin Cornwell wrote to Josh Timonen:

26 “The inventory is being reviewed. We are not rushing through this.
27 We still need all of the financials from the [S]tore operations. . . .
28 Additionally without all the bank and financial statements from the
[S]tore it will be impossible to determine any financial obligations.
You were very concerned that RDF[] and Richard [Dawkins] would

1 leave you 'holding the bag'. Richard [Dawkins] is particularly
2 crushed you would accuse him or his Foundation of this. So, to
3 make certain this does not happen nothing will be done without
4 great caution."

5 (RDFRS, et al. DOX 1 -- 000094 to 000095.)

6 (j) At 1:51 PM EDT, Josh Timonen wrote to Robin Cornwell:
7 "As we said earlier, the end of the month would be the right time to
8 come out, May 31st. Wednesday is too soon."

9 (RDFRS, et al. DOX 1 -- 000092.)

10 (k) At 10:55 AM, Robin Cornwell wrote to Josh Timonen:
11 "We already made arrangements for Wednesday to meet with you."

12 (RDFRS, et al. DOX 1 -- 000090.)

13
14 (l) At 2:16 PM EDT, Josh Timonen wrote to Robin Cornwell:
15 "Robin, I think its past the point of us having a meeting. I've been
16 offended to the point where I wouldn't be able to sit in the same
17 room with you. Let's just keep the lines of communication open so
18 we can work through these logistics."

19 (RDFRS, et al. DOX 1 -- 000090.)

20 (m) At 2:28 PM, Robin Cornwell wrote to Josh Timonen:
21 I am afraid this is unacceptable. You need to reconsider a decision
22 that has such a tremendous impact.

23 (RDFRS, et al. DOX 1 -- 000088.)

24 (n) At 5:51:21 PM EDT, Josh Timonen wrote to Robin Cornwell:
25 "Robin, what is unacceptable?"

26 (RDFRS, et al. DOX 1 -- 000088)

27
28 (o) At 3:05 PM, Robin Cornwell wrote to Josh Timonen:
"Josh,

1 A meeting was set up for Wednesday May 26, and we do need to
 2 meet in order to begin the transition. Waiting until the end of this
 3 month is not possible given the documents, inventory, and financial
 4 issues that remain open. We can begin to go through these
 5 documents and view the software setup used to operate the Store.
 6 We also have legal documents to go through with you, and we want
 7 to make certain that you understand them and are comfortable with
 8 them. Additionally, we need obtain access to the warehouse and
 9 begin to box things up as we start the inventory count process. I will
 contact your accountant; however I only received email with the
 contact information Friday afternoon, thus I did not contact your
 accountant over the weekend.

10 robin

11 (RDFRS, et al. DOX 1 -- 000087.)

12
 13 (p) At 3:16 PM, Robin Cornwell wrote to Josh Timonen:

14 “Josh

15 It is unacceptable that you are refusing to meet on Wednesday. We
 16 are not arriving to move anything from the Store, we wanted to sit
 17 down and go through all the documents. . . .

18 We cannot sign off on any inventories, accounting, finances until we
 19 go over all the documentation.

20 ...

21 For all of this to be worked out you need to keep your agreement to
 22 meet on Wednesday. We need to transition the accounts, the
 23 software, etc.

24 Greg [Langer] and I will be at the warehouse to meet with you to
 25 discuss the transition on Wednesday.”

26 (RDFRS, et al. DOX 1 -- 000083.)

27 (q) At 6:26 PM EDT, Josh Timonen wrote to Robin Cornwell, and Greg
 28 Langer <glikeminds@gmail.com>:

“...

1 Whatever documents you are interested in having me sign, please email them
2 and I will review them.

3 As for the inventory, it is updated daily as orders are processed in Shopify.
4 Graham is shipping out the remaining 116 orders and we will reprint and submit
5 the final inventory.

6 ...

7 I will continue my efforts for a smooth transition of the office contents and store
8 inventory. ... Obviously we will need to be in continual contact over the next
9 year regarding expenses and 2009 and 2010 tax liabilities. We don't have to
10 have everything sorted out by the end of the month."

11 (RDFRS, et al. DOX 1 -- 000086 to RDFRS, et al. DOX 1 -- 000087.)

12 (r) At 6:50 PM EDT, Josh Timonen wrote to Robin Cornwell:

13 "I have agreed to meet with Greg [Langer] as planned."

14 (RDFRS, et al. DOX 1 -- 000083.)

15 168. In connection therewith, on June 3, 2010, at 5:17 p.m., Josh Timonen emailed
16 Robin Cornwell, Greg Langer, Todd Stiefel, and Andy Thomson:

17 "Hi Robin,

18 Our accountant has advised that we be paid for the stock that you
19 now have in your possession. If we don't receive money for the
20 stock costs, we are told it will reduce our 'purchases' and cause a
21 greater tax burden. We have sales tax, payroll taxes, DVDs, etc.,
22 that need to be paid out of Upper Branch. We will also have tax
23 liabilities for 2009 and 2010. I suggest you send us the cost (\$23k).
24 We're hoping this amount will cover all of these costs, but we won't
25 know for certain until we get numbers back from our bookkeeper.

26 We also need to deal with transferring the rights from Upper Branch
27 Productions, Inc. to RDF on all of the DVD titles. There are also
28 several titles that we will need to do a transfer of copyright
ownership on."

A copy of this email was subsequently produced by Upper Branch, et al., to
Dawkins and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000791 to
DEF000792.

1
2 169. In connection therewith, on June 3, 2010, at 5:47 p.m., Robin Cornwell emails
3 Josh Timonen and carbon copies Greg Langer, Todd Stiefel, and Andy Thomson, and Steve
4 Gaines:

5 "Dear Josh,
6 Please let me know what other invoices you have pending and send
7 them to me. Could you expand on the RDFRS DVD titles and the
8 rights?"

9 A copy of this email was subsequently produced by Upper Branch, et al., to Dawkins
10 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000792.

11
12 170. In connection therewith, on June 4, 2010, at 12:45 PM, Josh Timonen sends a
13 reply email to Robin Cornwell, carbon copying Greg Langer, Todd Stiefel, Andy Thomson,
14 and Steve Gaines:

15 "We will need to draft 'assignment of rights'/copyright transferring
16 the rights from Upper Branch Productions, Inc. to RDFRS on
17 several of the DVD titles.:"

18 A copy of this email was subsequently produced by Upper Branch, et al., to Dawkins
19 and RDF in EC054190, see infra at 57, *et seq.*, bates stamped DEF000792.

20 171. In reasonable reliance upon the foregoing material representations and
21 assurances from Robin Cornwell, on behalf of Richard Dawkins and RDF, that Upper Branch
22 would be compensated for inventory as well as the financial, legal, and tax liabilities it
23 incurred as a result of the conveyance of the Store operations, RDF, under the guise of such
24 agreement requested and received from Upper Branch all proprietary details concerning the
25 Store operations, inventory and assets, thereby enabling RDF to abscond with the Store
26 operations, inventory and assets from Upper Branch without compensating Upper Branch for
27 any of the inventory, financial, legal, and tax liabilities, as was agreed.

28 172. At the time all of the above representations were made by Richard Dawkins and

1 Robin Cornwell on behalf of Richard Dawkins and RDF, Robin Cornwell knew that the
2 representations were false when made, or that Robin Cornwell made the representations
3 recklessly and without regard for their truth. At the time these representations were made,
4 Josh Timonen and Maureen Norton for Upper Branch were ignorant of the falsity of these
5 representations and reasonably believed them to be true.

6 173. In reasonable reliance on the representations, and having no reason to believe
7 that such representation was false in any way, Upper Branch was induced to perform and did
8 perform completely by, inter alia, handing over all proprietary details concerning the Store
9 operations, inventory and assets, to RDF, and assigning to RDF the Upper Branch Store
10 operations, inventory, and assets, including two (2) written copyright assignments for certain
11 Works, before Upper Branch was ever compensated for the inventory as well as the financial,
12 legal, and tax liabilities they incurred as a result of said assignment, as promised.

13 174. Upper Branch's reliance on the representations by Robin Cornwell on behalf of
14 Richard Dawkins and RDF was justified because Robin Cornwell expressly asserted her
15 authority to act on behalf of Richard Dawkins and RDF, and Robin Cornwell confirmed that
16 she had legal and institutional authority to make the promise she made on behalf of Richard
17 Dawkins and RDF.

18 175. It was only after Upper Branch fully performed that it discovered Robin
19 Cornwell, Richard Dawkins, and RDF had no intention of compensating Upper Branch for the
20 inventory, incurred financial, legal, and tax liabilities, as promised. Had it known these true
21 facts, Upper Branch would not have rendered performance as agreed.

22 176. Moreover, Upper Branch is informed and believes that in the furtherance of such
23 fraud, that the BCC's tax treatment of Richard Dawkins' website was misrepresented by
24 Dawkins and Cornwell as well given their violation of an Order by the Los Angeles Superior
25 Court in EC054190, see infra at 57, *et seq.*, to produce evidence in support of such claims.

26 177. Without any legal right or justification, Robin Cornwell, Richard Dawkins, and
27 RDF fraudulently acquired the Upper Branch Store operation, inventory, and assets, including
28 tangible copies of all Upper Branch Works and written copyright assignments for two (2) of

1 the Works, and Mike Cornwell and RDF Store are now operating the Store from Mike
2 Cornwell's home residence, selling Upper Branch inventory and assets to the public, without
3 ever having compensated Upper Branch for the inventory, and its incurred financial, legal, and
4 tax liabilities, as promised.

5 178. Timonen and Norton reasonably having no reason to believe that such telephone
6 and email representations made by Dawkins and Robin Cornwell on behalf of Defendant RDF
7 were false in any way, were on behalf of Plaintiff induced in Los Angeles, California to
8 perform and did perform completely in or about June 2010 by, inter alia, permitting Defendant
9 RDF (through Robin Cornwell, Mike Cornwell, and Greg Langer) to take physical possession
10 of Plaintiff's inventory from Los Angeles, California, including tangible copies of the Works,
11 and assigning to RDF certain of Plaintiff's assets including written copyright assignments as to
12 certain of the Works, including those attached hereto in **Exhibit "B,"** before Plaintiff was ever
13 paid any of the agreed upon and promised monetary consideration for its inventory, the
14 transfer thereof, or for Plaintiff's incurred costs and liabilities, as promised by these
15 Defendants. Attached hereto and incorporated by reference herein as **Exhibit "B"** are true and
16 correct copies of the two (2) short form copyright assignments Plaintiff executed in Los
17 Angeles, California in favor of RDF in reliance upon such misrepresentations.

18 179. At the time the representations were made and Plaintiff entered into the
19 agreement, and at subsequent times when Robin Cornwell and RDF agents Mike Cornwell and
20 Greg Langer on behalf of RDF took physical possession in Los Angeles, California of
21 Plaintiff's assets including written copyright assignments to two works specified below,
22 Timonen and Norton on behalf of Plaintiff did not know the material representations or
23 material omissions of fact by Dawkins, Robin Cornwell, Mike Cornwell and Greg Langer on
24 behalf of Defendant RDF were false, but believed them to be true and reasonably relied on
25 them. Had they known the true facts, they would not have rendered performance on behalf of
26 Plaintiff without consideration.

27 180. It was only after Plaintiff fully performed in Los Angeles, California the
28 agreement, and all of such inventory had been removed from Plaintiff's place of business in

1 Los Angeles, that they discovered Defendant RDF had no intention of “buy[ing] out the store”
2 or providing the promised consideration or paying the agreed consideration to Plaintiff for its
3 inventory, the transfer thereof, including the costs and liabilities incurred by Plaintiff as a
4 result of the conveyance, transfer and assignment of assets to RDF and related matters, as
5 promised by Defendants.

6 181. Without any legal right or justification and in contravention of the contractual
7 agreement between the parties, Defendant RDF fraudulently acquired Plaintiff’s assets,
8 including Plaintiff’s inventory consisting of Plaintiff’s tangible copies of the Works, inter alia,
9 and copyright assignments attached hereto as **Exhibit “B,”** and commenced selling Plaintiff’s
10 assets to the public, including unauthorized copies of Plaintiff’s copyrighted Works, without
11 ever having provided the promised monetary consideration or compensation to Plaintiff, as
12 promised by Defendants to Timonen and Norton on behalf of Plaintiff in Los Angeles.

13 182. Apart from the two short form copyright assignments attached hereto as **Exhibit**
14 **“B,”** pertaining to those Works entitled “Atheist Alliance International (AAI) 2007”
15 (PA1609844, 2007) and “Pat Condell Anthology Feb. 2007 - Feb. 2008” (PA1646005, 2008),
16 which were obtained on the basis of the fraud of Defendants herein, and which Upper Branch
17 seeks to rescind, there are no other documents purportedly transferring any of Plaintiff’s
18 copyright interests in or to any of the Works to Defendants RDF.

19 183. The apparent consent of Upper Branch to the assignment of Upper Branch Store
20 operations, inventory, and assets, and the subsequent execution of two (2) written copyright
21 assignments, was not real, mutual, or free in that it was obtained through fraud as herein
22 alleged.

23 184. Any and all apparent consent of Upper Branch to the assignment of Upper
24 Branch Store operations, inventory, and assets, and execution of two (2) written copyright
25 assignments, was obtained from Upper Branch solely through the fraud of Robin Cornwell on
26 behalf of Richard Dawkins and RDF. Significantly, Upper Branch would not have agreed to
27 assign the Store operations, inventory, and assets for free, had it not been for the fraud of
28 Robin Cornwell on behalf of Richard Dawkins and RDF.

1 185. Defendants now wrongfully exercise dominion over the Upper Branch Store
2 operations, inventory, and assets, including tangible copies of the Upper Branch Works.

3 186. Upper Branch rightfully owns the Store operations, inventory, and assets,
4 including the tangible copies of the Upper Branch Works.

5 187. Defendants intentionally took possession of the Upper Branch Store operations,
6 inventory, and assets, including the Upper Branch Works, and then refused to pay Upper
7 Branch for their conveyance of the same.

8 188. RDF is now operating the Upper Branch Store and exploiting the Upper Branch
9 Store inventory and assets to the public through the Internet, inter alia.

10 189. Due to the fraud of Defendants (except IWI), much of which occurred in Los
11 Angeles, no consideration supports any transfer, conveyance or assignment of any copyrights
12 in the Works to Defendants (except IWI).

13 190. In or about October, 2010, Dawkins and RDF filed and served a civil complaint
14 (“Complaint”) against Upper Branch, *et al.*, in Los Angeles Superior Court (“LASC” or
15 “Court”), bearing case no. EC054190, alleging multiple causes of action, for: (1) Breach of
16 Oral Contract; (2) Breach of the Implied Covenant of Good Faith and Fair Dealing; (3) Breach
17 of Fiduciary Duty; (4) Fraud; (5) Embezzlement; (6) Declaratory Relief; and (7) Imposition of
18 Constructive Trust.

19 191. The “Embezzlement” cause of action recited five sections of the California Penal
20 Code (Sections 503, 504, 506, 507, 508, and 532(a)) which Dawkins and RDF claimed were
21 violated by the alleged conduct of Upper Branch, *et al.*, in operation of the Upper Branch
22 Store.

23 192. Richard Dawkins and RDF then published a copy of this Complaint on RDF’s
24 website, in their bid to wage a very distasteful public internet smear campaign against Upper
25 Branch, *et al.*, on their offensive claims of criminality, including the purported violations of
26 Penal Code provisions contained in the civil Complaint.

27 193. The Declaratory Relief claim falsely alleged that the Works, and other
28 intellectual property created by Upper Branch and Josh Timonen were “works for hire” for

1 RDF, and alleged a dispute with Mr. Timonen and Upper Branch over ownership of these
2 Works and other intellectual property, and sought a declaration that such Works and materials
3 and intellectual property belonged to RDF.

4 194. Upper Branch, et al., took issue with this Complaint, *inter alia*, because the
5 questions of copyright ownership raised in the complaint for the Works in question could not
6 be “works for hire” for RDF because Mr. Timonen and Upper Branch were never employees
7 of RDF, and because there was no written agreement marking these “works for hire” as
8 required by U.S. Copyright Law.

9 195. In response, Dawkins and RDF amended their Complaint in EC054190,
10 materially altering the prior allegation of ownership of the Works as “works for hire” to newly
11 allege the existence of a non-exclusive license and acknowledged that the Works were owned
12 by Upper Branch. This amended complaint also alleged a new cause of action for Interference
13 with Prospective Economic Advantage in substitution for the Declaratory Relief claim based
14 upon Upper Branch’s assertion of its rights, as copyright owner of the Works, to Idea Media,
15 the laboratory holding physical materials embodying the Works and supplying unauthorized
16 copies to RDF and Dawkins.

17 196. On January 28, 2011, the Court while granting a demurrer instructed RDF and
18 Dawkins to replead their criminal “Embezzlement” claim as a recognized civil claim.

19 197. Flouting the Court’s instructions, RDF and Dawkins filed a second amended
20 complaint in EC054190, again filed a criminal “Embezzlement” claim and added a new,
21 second “criminal” claim for “Larceny.”

22 198. In EC054190, RDF and Dawkins admitted that it was “illegal” for RDF to own
23 and operate an for-profit online store merchandising operation because of restrictions imposed
24 upon RDF by the BCC. However, RDF and Dawkins also changed once again their
25 allegations in this regard, as well, alleging instead in their second amended complaint, and for
26 the first time in EC054190, that the Trustees of RDF only “believed” that a direct operation of
27 the a for-profit online store merchandising operation by RDF was “legally impermissible” but
28 that their purported belief was “incorrect” due to erroneous advice from counsel.

1 199. Upper Branch is informed and believes that that the BCC's tax treatment of
2 Richard Dawkins' website, e.g. supra at 15 and 25, was misrepresented by Richard Dawkins
3 and Robin Cornwell as well given their violation of an Order by the Los Angeles Superior
4 Court in EC054190 to produce evidence in support of such claims.

5 200. On May 7, 2011, the Court dismissed with prejudice RDF and Dawkins'
6 "criminal" claims for Embezzlement and Larceny. At the hearing, the Court questioned
7 counsel for RDF and Dawkins as to why a civil claim for conversion was not pled, and in
8 response, counsel for RDF and Dawkins stated that it was a "tactical" decision for RDF and
9 Dawkins.

10 201. Richard Dawkins, RDF, and their counsel in EC054190 were sanctioned by the
11 Court for their failure to comply with their discovery obligations in refusing to produce
12 requisite documents in support of their purported claims in EC054190. An order compelling
13 production of numerous document categories without objections or privilege was issued but
14 not complied with. Accordingly, a motion for terminating sanctions, and alternatively issue
15 sanctions and evidentiary sanctions was pending and set for hearing when Richard Dawkins
16 and RDF purported to dismiss their Complaint in EC054190.

17 202. On August 3, 2011, Dawkins and RDF dismissed their complaint in EC054190
18 with prejudice and a costs judgment was subsequently entered in favor of Upper Branch, *et al.*
19 in EC054190.

20 203. According to a string of email communications collectively attached hereto as
21 **Exhibit "C,"** starting in or about June 2010, Richard Dawkins by and through Robin Cornwell
22 and Mike Cornwell requested Andrew Chalkey to begin deleting Josh Timonen's name from
23 authorship of articles posted on RDF's website that referenced the Works created by Upper
24 Branch, *inter alia*. In October, 2010, Richard Dawkins also appears to have later lamented to
25 Andrew Chalkey: "I feel strongly that it was wrong to ask you to delete Josh's name from
26 authorship of articles. It is simply a matter of historical fact that he wrote them".

27 204. At such time, Andrew Chalkley was an independent contractor performing
28 website/internet services for both Richard Dawkins Ltd UK and RDF in the UK, who had

1 worked with Josh Timonen on website projects for Richard Dawkins personally and RDF,
 2 such as RichardDawkins.net, RichardDawkinsFoundation.org, OutCampaign.org, among
 3 others.

4 205. Further, according to the email communications collectively attached hereto as
 5 **Exhibit “C,”** on or about June 23, 2010, Mike Cornwell emailed Andrew Chalkley, copying
 6 Robin Cornwell:

7 This all getting very messy legal wise. We need to update/sanitize
 8 other references as well[.] As an example this video which has a
 9 “By Josh Timonen” needs to say “Presented by RDFRS” . . . all of
 10 these . . . should replace Josh’s name with presented by the Richard
 11 Dawkins Foundation. On ones with someone else listed, like Judy
 12 Diamond . . . then her name should go before ‘presented by the
 13 Richard Dawkins Foundation’ many of them already have an
 14 RDFRS credit so just need to delete reference to Josh.

15 206. According to RDF’s website <richarddawkins.net>, Robin Cornwell is now
 16 representing to the public that she is to be credited with the creation of the Upper Branch
 17 Works, i.e. “[h]er innovative ideas include... the Four Horsemen and other DVDs”. See
 18 <http://www.richarddawkins.net/home/about>.

19 207. Plaintiff has been damaged in an amount to be proven at trial, plus pre- and post
 20 judgment interest at the legal rate, consequential and incidental damages, costs, expenses, and
 21 reasonable attorney’s fees.

22 208. Plaintiff further alleges that Defendants, through managing agents Dawkins and
 23 Cornwell, were guilty of oppression, fraud and malice as defined by California Civil Code §
 24 3294 when making the above referenced representations and that Plaintiff should recover
 25 punitive damages in an amount sufficient to punish and deter Defendants from repeating such
 26 conduct in the future.

27 **FIFTH CLAIM FOR RELIEF**

28 **(BREACH OF ORAL CONTRACT - IN THE ALTERNATIVE)**

[Against Defendant RDF]

209. Plaintiff re-alleges and incorporates by reference the allegations contained in

Paragraphs 1 through 90, inclusive, as if fully set forth herein.

210. In or about December 2009, Defendants Dawkins and Robin Cornwell, on behalf of RDF *inter alia*, asserted an interest in purchasing certain assets of Plaintiff. In connection therewith, Defendant Cornwell and other RDF trustees represented that RDF had obtained its 501(c)(3) status and had been “uncoupled” from RDF in the United Kingdom, which purportedly allowed RDF to profit from the sale of merchandise.

211. In or about December 2009, Plaintiff and Dawkins and Cornwell on behalf of RDF orally agreed that upon the condition and in consideration for the transfer of certain assets of Plaintiff’s, including Plaintiff’s inventory of tangible copies of the Works, and written copyright assignments, Defendant RDF would provide monetary consideration to Plaintiff and compensate Plaintiff for all of its inventory and the costs and liabilities incurred by Plaintiff as a result of the conveyance, transfer and assignment of assets to RDF and related matters.

212. Defendant materially breached the agreement in that Plaintiff has never been compensated for its inventory or costs or liabilities incurred as a result of its conveyance, assignment, and related matters.

213. Plaintiff fully performed all conditions, covenants, and promises required of them under the terms of the agreement, except for those conditions, covenants and promises which have been prevented or otherwise excused by the conduct of the Defendant in that Plaintiff has conveyed and assigned Plaintiff’s inventory and assets to Defendant RDF.

214. As a direct and proximate result of the foregoing breach, Plaintiff has been damaged in an amount to be proven at trial, plus pre- and post-judgment interest at the legal rate.

SIXTH CLAIM FOR RELIEF

(BREACH OF IMPLIED CONTRACT - IN THE ALTERNATIVE)

[Against Defendant RDF]

215. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90, inclusive, as if fully set forth herein.

1 216. In or about December 2009, Defendants Dawkins and Robin Cornwell, on behalf
2 of RDF *inter alia*, asserted an interest in purchasing certain assets of Plaintiff. In connection
3 therewith, Defendant Cornwell and other RDF trustees represented that RDF had obtained its
4 501(c)(3) status and had been “uncoupled” from RDF in the United Kingdom, which
5 purportedly allowed RDF to profit from the sale of merchandise.

6 217. In or about December 2009, Plaintiff and Dawkins and Cornwell on behalf of
7 RDF orally agreed that upon the condition and in consideration for the transfer of certain
8 assets of Plaintiff’s, including Plaintiff’s inventory of tangible copies of the Works, and
9 written copyright assignments, Defendant RDF would provide monetary consideration to
10 Plaintiff and compensate Plaintiff for all of its inventory and the costs and liabilities incurred
11 by Plaintiff as a result of the conveyance, transfer and assignment of assets to RDF and related
12 matters.

13 218. At all relevant times Defendant RDF, by and through Defendants Dawkins and
14 Robin Cornwell, discussed with Timonen and/or Norton on behalf of Plaintiff, the conveyance
15 and assignment of inventory and assets from Plaintiff to RDF, Defendant RDF understood and
16 agreed that Plaintiff’s actions in furtherance of such conveyance and assignment occurred
17 because Plaintiff was expecting monetary consideration and compensation for all of its
18 inventory and costs and liabilities incurred as a result of such conveyance, assignment, and
19 related matters.

20 219. With this knowledge, in or about June 2010, Defendant RDF, by and through
21 Defendant Robin Cornwell, took physical possession of Plaintiff’s inventory and assets,
22 including the tangible copies of the Works and accepted written copyright assignments from
23 Plaintiff.

24 220. Plaintiff has not received any monetary consideration or agreed to compensation
25 from RDF for the conveyance and assignment of Plaintiff’s inventory and assets to RDF, and
26 related matters.

27 221. Accordingly, Defendant has violated its implied agreement with Plaintiff.

28 222. As a direct and proximate result of the foregoing breach, Plaintiff has been

1 damaged in an amount to be proven at trial, plus pre- and post-judgment interest at the legal
2 rate.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays that this Court enter judgment in its favor and against
5 Defendants, and each of them, as follows:

- 6 (a) On the first through third claims for relief, preliminarily and permanently enjoin,
7 pursuant to 17 U.S.C. § 502, Defendants, their respective officers, agents,
8 servants, employees and those persons in active concert or participation with
9 Defendants, or any of them, from inducing infringement or directly,
10 contributorily, and/or vicariously infringing by any means, Plaintiff's exclusive
11 rights under the Copyright Act, including, but not limited to manufacturing,
12 reproducing, distributing, adapting, displaying, advertising, promoting, offering
13 for sale and/or selling, or performing any materials that are substantially similar
14 to the copyrighted Works listed on **Exhibit "A"**, and to deliver to the Court for
15 destruction or other reasonable disposition all such materials and means for
16 producing same in Defendants' possession or control;
- 17 (b) award Plaintiff statutory damages in accordance with 17 U.S.C. § 504 and other
18 applicable law;
- 19 (c) award Plaintiff general, compensatory and consequential damages in an amount
20 to be proven at trial, including allowable legal interest on the sum according to
21 proof;
- 22 (d) award Plaintiff punitive damages in an amount appropriate to punish the
23 Defendants and deter others from engaging in similar misconduct;
- 24 (e) rescission of copyright assignments attached hereto as **Exhibit "B"**;
- 25 (f) award Plaintiff costs and reasonable attorneys' fees in accordance with 17
26 U.S.C. § 505, and other applicable law; and
- 27 (g) award Plaintiff such further and additional relief as the Court may deem just and
28 proper.

1 Dated: February 19, 2013

Respectfully submitted,

2 COSTA, ABRAMS & COATE, LLP

3
4 By: 

5 Alan Abrams

6 Charles M. Coate

7 Attorneys for Plaintiff UPPER BRANCH
8 PRODUCTIONS, INC.
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DEMAND FOR JURY TRIAL

Plaintiff requests a jury trial.

Dated: February 19, 2013

Respectfully submitted,

COSTA, ABRAMS & COATE, LLP

By: 

Alan Abrams

Charles M. Coate

Attorneys for Plaintiff UPPER BRANCH
PRODUCTIONS, INC.



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-744-813

Effective date of
registration:
November 19, 2010

Title _____

Title of Work: Break the Science Barrier

Completion/ Publication _____

Year of Completion: 2008

Date of 1st Publication: February 3, 2008

Nation of 1st Publication: United States

Author _____

■ **Author:** Upper Branch Productions Inc.

Author Created: DVD artwork and additional footage

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Limitation of copyright claim _____

Material excluded from this claim: original video

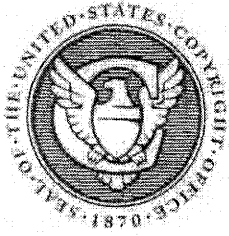
New material included in claim: DVD artwork and additional footage

Certification _____

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Acting Register of Copyrights, United States of America

Registration Number
PA 1-720-581

Effective date of
registration:

October 27, 2010

Title

Title of Work: The Root of all Evil: The Uncut Interviews

Completion/Publication

Year of Completion: 2007

Date of 1st Publication: September 8, 2007

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: Dvd artwork, dvd graphics, dvd authoring, dvd menu, dvd menu music.

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, CA, 97209, United States

Certification

Name: Josh Timonen

Date: October 6, 2010

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Acting Register of Copyrights, United States of America

Registration Number
PA 1-725-279

Effective date of
registration:
May 23, 2008

Title

Title of Work: Discussions with Richard Dawkins: The Four Horsemen

Nature of Work: DVD-Educational documentary

Completion/Publication

Year of Completion: 2007

Date of 1st Publication: December 1, 2007

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions, Inc.

Author Created: entire motion picture

Work made for hire: Yes

Domiciled in: United States

Anonymous: No

Pseudonymous: No

Copyright claimant

Copyright Claimant: Upper Branch Productions, Inc.

555 NW Park Ave #317, Portland, OR 97209

Limitation of copyright claim

Previously registered: No

Certification

Name: Joshua Timonen

Date: May 14, 2008

Correspondence: Yes

Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-739-638

Effective date of
registration:
October 27, 2010

Title

Title of Work: The Genius of Charles Darwin

Completion/Publication

Year of Completion: 2009

Date of 1st Publication: February 22, 2009

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: Additional original video footage, DVD artwork

Work made for hire: Yes

Citizen of: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Limitation of copyright claim

Material excluded from this claim: preexisting series "The Genius of Charles Darwin"

New material included in claim: Additional original video footage, DVD artwork

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-739-396

Effective date of
registration:
November 22, 2010

Title

Title of Work: Root of all Evil?

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: February 10, 2008

Nation of 1st Publication: United States

Author

Author: Upper Branch Productions Inc.

Author Created: video footage, music and artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, portland, OR, 97209, United States

Limitation of copyright claim

Material excluded from this claim: Some footage

New material included in claim: Additional footage, music and artwork

Rights and Permissions

Organization Name: Upper Branch Productions Inc.

Address: 555 NW Park Ave #317

portland, OR 97209 United States

Certification

Name: Josh Timonen

Date: October 6, 2010

Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-739-394

Effective date of
registration:

November 22, 2010

Title

Title of Work: The AAI 2009 Conference

Completion/Publication

Year of Completion: 2009

Date of 1st Publication: February 17, 2009

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: entire motion picture, artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number

PAu 3-555-606

Effective date of
registration:

November 22, 2010

Title

Title of Work: Richard Dawkins Appearances and Events 2007-2008

Completion/Publication

Year of Completion: 2008

Author

■ Author: Upper Branch Productions Inc.

Author Created: entire motion picture and artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-739-392

**Effective date of
registration:**
November 22, 2010

Title

Title of Work: Voices of Reason
Series Title: Discussions with Richard Dawkins
Number 3

Completion/Publication

Year of Completion: 2008
Date of 1st Publication: November 3, 2008
Nation of 1st Publication: United States

Author

■ **Author:** Upper Branch Productions Inc.
Author Created: entire motion picture, artwork
Work made for hire: Yes
Citizen of: United States
Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.
555 NW Park Ave #317, Portland, OR, 97209

Certification

Name: Josh Timonen
Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-739-398

Effective date of
registration:
November 22, 2010

Title

Title of Work: The Enemies of Reason Uncut Interviews

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: November 23, 2008

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: entire motion picture, artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-742-661

Effective date of
registration:
December 3, 2010

Title

Title of Work: Discussions with Richard Dawkins: Voices of Science

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: July 22, 2008

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: entire motion picture

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Certification

Name: Josh Timonen

Date: October 6, 2010

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-746-366

Effective date of
registration:
October 27, 2010

Title

Title of Work: The Genius of Charles Darwin-the Uncut Interviews

Completion/Publication

Year of Completion: 2009

Date of 1st Publication: May 2, 2009

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: text and compilation of preexisting photos on packaging.

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Limitation of copyright claim

Material excluded from this claim: Preexisting footage and photos

New material included in claim: text and compilation of preexisting photos on packaging

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-745-953

Effective date of
registration:

October 28, 2010

Title

Title of Work: The Enemies of Reason

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: August 15, 2008

Nation of 1st Publication: United States

Author

■ Author: Upper Branch Productions Inc.

Author Created: artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Limitation of copyright claim

Material excluded from this claim: motion picture previously registered

New material included in claim: new DVD artwork

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:
PA 1-646-005

**Effective date of
registration:**
May 23, 2008

Title _____
Title of Work: Pat Condell Anthology Feb. 2007 - Feb. 2008
Nature of Work: DVD - educational documentary

Completion/ Publication _____
Year of Completion: 2008
Date of 1st Publication: April 29, 2008

Author _____
■ Author: Upper Branch Productions, Inc.
Author Created: Director, editor, producer, sound mixer, of the DVD
Work made for hire: Yes
Citizen of: United States
Anonymous: No Pseudonymous: No

Copyright claimant _____
Copyright Claimant: Upper Branch Productions, Inc.
1427 N. La Brea, Suite A, Los Angeles, CA 90028

Limitation of copyright claim _____
Previously registered: No

Certification _____
Name: Joshua Timonen
Date: May 14, 2008

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
PA 1-800-214

Effective date of
registration:
October 28, 2010

Title

Title of Work: Growing up in the Universe

Completion/Publication

Year of Completion: 2007

Date of 1st Publication: May 1, 2007

Nation of 1st Publication: United States

Author

Author: Upper Branch Productions Inc

Author Created: editing, dvd authorship

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

555 NW Park Ave #317, Portland, OR, 97209

Rights and Permissions

Organization Name: Upper Branch Productions Inc.

Address: 555 NW Park Ave #317

Portland, OR 97209

Certification

Name: Josh Timonen

Date: October 6, 2010

Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

PA 1-609-844

Effective date of
registration:

May 21, 2008

Title

Title of Work: Atheist Alliance International (AAI) 2007

Nature of Work: DVD Educational Documentary

Completion/ Publication

Year of Completion: 2007

Date of 1st Publication: December 4, 2007

Author

Author: Upper Branch Productions Inc.

Author Created: Motion picture

Work made for hire: Yes

Copyright claimant

Copyright Claimant: Upper Branch Productions Inc.

1427 N La Brea, Ste A, Los Angeles, CA, 90028

Limitation of copyright claim

Previously registered: No

Certification

Name: Joshua Timonen

Date: May 14, 2008

Correspondence: Yes

Short Form Assignment of Copyright

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged Upper Branch Productions Inc. ("Assignor"), located at 5543 Riverton Ave #2 North Hollywood, CA 91423, hereby irrevocably transfers and assigns to The Richard Dawkins Foundation for Reason and Science ("Assignee), located at Metro Center 1200 G Street NW 8th Floor Washington, DC 20005, its successors and assigns, in perpetuity, all right (whether now known or hereinafter invented), title, and interest, throughout the world, including any copyrights and renewals or extensions thereto, in AAI 2007 Educational dvd Copyright registration number PA 1-609-844

IN WITNESS THEREOF, Assignor has duly executed this Agreement.

Upper Branch Productions Inc.

By: 

Title: President

Date: 6/04/10

Short Form Assignment of Copyright

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged Upper Branch Productions Inc. ("Assignor"), located at 5543 Riverton Ave #2 North Hollywood, CA 91423, hereby irrevocably transfers and assigns to The Richard Dawkins Foundation for Reason and Science ("Assignee), located at Metro Center 1200 G Street NW 8th Floor Washington, DC 20005, its successors and assigns, in perpetuity, all right (whether now known or hereinafter invented), title, and interest, throughout the world, including any copyrights and renewals or extensions thereto, in Pat Condell Anthology Educational dvd Copyright registration number PA1-646-005

IN WITNESS THEREOF, Assignor has duly executed this Agreement.

Upper Branch Productions Inc.

By: [Signature]

Title: President

Date: 6/04/10

1/30/13

The Chalkleys Mail - more cleanup



Andrew Chalkley <andrew@chalkley.org>

more cleanup

9 messages

Mike Cornwell <mike@mcornwell.net>
 To: Andrew Chalkley <andrew@chalkley.org>
 Cc: Elisabeth Cornwell <robin.cornwell@gmail.com>

23 June 2010 10:46

This is all getting very messy legal wise.
 We need to update/sanitize other references as well

As an example this video which has a "By Josh Timonen" needs to say "Presented by RDFRS"
<http://richarddawkins.net/articles/183>

all of these
[http://richarddawkins.net/archive/videos/latest?tag_ids\[\]=28](http://richarddawkins.net/archive/videos/latest?tag_ids[]=28)

should replace Josh's name with presented by the Richard Dawkins Foundation. On ones with someone else listed, like Judy Diamond.... then her name should go before 'presented by the Richard Dawkins Foundation'
 many of them already have an RDFRS credit so just need to delete reference to Josh.

I notice that when I do a search for "Upper Branch" I see a lot of links but get a "the page you are looking for doesn't exist" so I'm guessing a stale cache or something. If that can be refreshed it would also be good.

Please let me know if any of this is a one by one sort of thing but I'm hoping it's relatively straight forward from a Ruby terminal session.

Thanks,
 /Mike

Andrew Chalkley <andrew@chalkley.org>
 To: Mike Cornwell <mike@mcornwell.net>
 Cc: Elisabeth Cornwell <robin.cornwell@gmail.com>

23 June 2010 11:11

Original Posts:

<http://richarddawkins.net/articles/183>
 Josh Timonen
<http://richarddawkins.net/articles/1534>
 Dogma Free America, Josh Timonen
<http://richarddawkins.net/articles/2400>
 Josh Timonen, RichardDawkins.net
<http://richarddawkins.net/articles/3986>
 Michael Shermer, The Richard Dawkins Foundation, Josh Timonen
<http://richarddawkins.net/articles/4058>
 Richard Dawkins, Josh Timonen, Judy Diamond, RDFRS
<http://richarddawkins.net/articles/4063>
 Richard Dawkins, Josh Timonen, Judy Diamond, RDFRS
<http://richarddawkins.net/articles/4067>
 Richard Dawkins, Josh Timonen, Judy Diamond, RDFRS
<http://richarddawkins.net/articles/4070>
 Richard Dawkins, Josh Timonen, Judy Diamond, RDFRS
<http://richarddawkins.net/articles/4085>
 Richard Dawkins, Josh Timonen, Judy Diamond, RDFRS
<http://richarddawkins.net/articles/4094>
 Richard Dawkins, Josh Timonen, Judy Diamond, Ken Kaneshiro, RDFRS
<http://richarddawkins.net/articles/4109>
 Richard Dawkins, Josh Timonen

<http://richarddawkins.net/articles/4231>
Richard Dawkins, Josh Timonen
<http://richarddawkins.net/articles/4281>
Richard Dawkins, Josh Timonen
<http://richarddawkins.net/articles/4329>
Richard Dawkins, Josh Timonen
<http://richarddawkins.net/articles/4431>
PZ Myers, AAI, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4459>
Dr. Andy Thomson, RDFS, AAI, Josh Timonen
<http://richarddawkins.net/articles/4490>
Lawrence Krauss, AAI, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4547>
Dan Dennett, AAI 2009, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4561>
Jerry Coyne, AAI 2009, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4599>
Richard Dawkins, AAI, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4605>
Mr. Deity, AAI, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4629>
Richard Dawkins, AAI, RDFS, Josh Timonen
<http://richarddawkins.net/articles/471561>
Robert Seyfarth, Josh Timonen
<http://richarddawkins.net/articles/471000>
Brian Greene, Josh Timonen, RDFS
<http://richarddawkins.net/articles/471222>
Robert Seyfarth, Josh Timonen
<http://richarddawkins.net/articles/4766>
A.C. Grayling, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4600>
Dan Dennett, AAI, RDFS, Josh Timonen
<http://richarddawkins.net/articles/4601>
Carolyn Porco, RDFS, AAI, Josh Timonen
<http://richarddawkins.net/articles/4890>
A.C. Grayling, RDFS, Josh Timonen
<http://richarddawkins.net/articles/500>
Josh Timonen, Andrew Chalkley
<http://richarddawkins.net/articles/4388>
Josh Timonen

To:

<http://richarddawkins.net/articles/183>
The Richard Dawkins Foundation
<http://richarddawkins.net/articles/1534>
Dogma Free America, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/2400>
The Richard Dawkins Foundation, RichardDawkins.net
<http://richarddawkins.net/articles/3986>
Michael Shermer, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4058>
Richard Dawkins, Judy Diamond, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4063>
Richard Dawkins, Judy Diamond, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4067>
Richard Dawkins, Judy Diamond, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4070>
Richard Dawkins, Judy Diamond, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4085>
Richard Dawkins, Judy Diamond, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4094>
Richard Dawkins, Judy Diamond, Ken Kaneshiro, the Richard Dawkins Foundation
<http://richarddawkins.net/articles/4109>
Richard Dawkins, the Richard Dawkins Foundation

C-2

http://richarddawkins.net/articles/4231
Richard Dawkins, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4281
Richard Dawkins, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4329
Richard Dawkins, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4431
PZ Myers, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4459
Dr. Andy Thomson, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4490
Lawrence Krauss, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4547
Dan Dennett, AAI 2009, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4561
Jerry Coyne, AAI 2009, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4599
Richard Dawkins, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4605
Mr. Deity, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4629
Richard Dawkins, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/471561
Robert Seyfarth, the Richard Dawkins Foundation
http://richarddawkins.net/articles/471000
Brian Greene, the Richard Dawkins Foundation
http://richarddawkins.net/articles/471222
Robert Seyfarth, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4766
A.C. Grayling, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4600
Dan Dennett, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4601
Carolyn Porco, AAI, the Richard Dawkins Foundation
http://richarddawkins.net/articles/4890
A.C. Grayling, the Richard Dawkins Foundation
http://richarddawkins.net/articles/500
The Richard Dawkins Foundation
http://richarddawkins.net/articles/4388
The Richard Dawkins Foundation

History is now changed :)

With regard to Upper Branch - that'll be because of Google's cache of the old store.

Regards

Andrew

[Quoted text hidden]

Mike Cornwell <mike@mcornwell.net>
To: Andrew Chalkley <andrew@chalkley.org>
Cc: Elisabeth Cornwell <robin.cornwell@gmail.com>

23 June 2010 11:13

Thanks!

[Quoted text hidden]

1/30/13

The Chalkleys Mail - more cleanup

Andrew Chalkley <andrew@chalkley.org>
To: Richard Dawkins <richard.dawkins1@me.com>

24 October 2010 13:13

Hey Richard

I see you've changed some entries back. Robin asked me to change all the articles back in June because possible legal "messiness". I just thought I'd alert you to it.

She also asked me, through Mike, to delete Josh's profile today. Which I haven't done yet. Am I to follow through with that?

Regards,
Andrew
[Quoted text hidden]

Richard Dawkins <richard.dawkins1@me.com>
To: Andrew Chalkley <andrew@chalkley.org>

24 October 2010 13:23

I feel strongly that it was wrong to ask you to delete Josh's name from authorship of articles. It is simply a matter of historical fact that he wrote them, and that is why I changed them back. Are there other articles that he wrote, from which his name has been removed?

I don't really understand about deleting profiles. What is the effect of deleting a profile?

All good wishes
Richard
[Quoted text hidden]